



[7590-01-P]

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 170 and 171**

**[NRC-2017-0026]**

**RIN 3150-AJ95**

**Revision of Fee Schedules; Fee Recovery for Fiscal Year 2018**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA-90) which requires the NRC to recover approximately 90 percent of its annual budget through fees.

**DATES:** This final rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Please refer to Docket ID **NRC-2017-0026** when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2017-0026**. Address questions about NRC dockets to Carol

Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

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- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Brian Harris, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-6382, e-mail: [Brian.Harris@nrc.gov](mailto:Brian.Harris@nrc.gov).

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## **I. Background; Statutory Authority**

The NRC's fee regulations are primarily governed by two laws: 1) the Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and 2) OBRA-90 (42 U.S.C. 2214). The IOAA generally authorizes and encourages Federal regulatory agencies to recover—to the fullest extent possible—costs attributable to services provided to identifiable recipients. The OBRA-90 requires the NRC to recover approximately 90 percent of its budget authority for the fiscal year (FY) through fees; in FY 2018, amounts appropriated for waste-incidental-to-reprocessing (WIR), generic homeland security activities, advanced reactor regulatory infrastructure activities, international activities, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board are excluded from this fee-recovery requirement. The OBRA-90 requires the NRC to use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable applicants and licensees (such as licensing work, inspections, and special projects). The regulations at part 170 of title 10 of the *Code of Federal Regulations* (10 CFR) authorize these fees. But, because the NRC's fee recovery under the IOAA (10 CFR part 170) does not equal 90 percent of the NRC's budget authority for the fiscal year, the NRC also assesses “annual fees” under 10 CFR part 171 to recover the remaining amount necessary to meet OBRA-90's fee-recovery

requirement. These annual fees recover costs that are not otherwise collected through 10 CFR part 170.

## **II. Discussion**

### **FY 2018 Fee Collection — Overview**

The NRC is issuing the FY 2018 final fee rule based on the Consolidated Appropriations Act, 2018 (Public Law 115-141) (the enacted budget), in the amount of \$922.0 million, an increase of \$4.9 million from FY 2017. As explained previously, certain portions of the NRC's total budget are excluded from the NRC's fee-recovery amount—specifically, these exclusions include: \$1.3 million for WIR activities, \$1.1 million for IG services for the Defense Nuclear Facilities Safety Board, \$10.0 million for advanced reactor regulatory infrastructure activities, and \$15.2 million for generic homeland security activities. Also, for the first time, the enacted budget excludes \$16.2 million for international activities from the fee-recoverable budget. Additionally, OBRA-90 requires the NRC to recover approximately 90 percent of the remaining budget authority—10 percent of the remaining budget authority is not recovered through fees. The NRC refers to the activities included in this 10-percent as “fee-relief” activities.

After accounting for the OBRA-90 exclusions, the adjustment associated with the United States Agency for International Development (USAID) rescission,<sup>1</sup> the fee-relief activities, and net billing adjustments (the sum of unpaid current year invoices (estimated) minus payments for prior year invoices), the NRC must bill approximately \$789.3 million in FY 2018 to licensees and applicants. Of this amount, the NRC estimates that \$280.8 million will be recovered through 10 CFR part 170 user fees,

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<sup>1</sup> The Consolidated Appropriations Act, 2018, rescinds approximately \$0.1 million of unobligated balances from funds previously transferred to the NRC from the United States Agency for International Development (USAID). The Joint Explanatory Statement for the Consolidated Appropriations Act, 2018, includes an adjustment to the NRC's fee recovery amount associated with this rescission.

which leaves approximately \$508.5 million to be recovered through 10 CFR part 171 annual fees. Table I summarizes the fee-recovery amounts for the FY 2018 final fee rule using the enacted budget and taking into account excluded activities, the fee-relief activities, and net billing adjustments (individual values may not sum to totals due to rounding). The Joint Explanatory Statement associated with the Consolidated Appropriations, Act 2018 includes direction for the NRC to use \$15.0 million in carryover funds. The use of carryover funds allows the NRC to accomplish the work needed without additional costs to licensees because consistent with the requirements of OBRA-90, fees are calculated based on the budget authority enacted for the current FY and not carryover funds.

**TABLE I. BUDGET AND FEE RECOVERY AMOUNTS<sup>2</sup>**

**[Dollars in millions]**

	FY 2017 Final Rule	FY 2018 Final Rule	Percentage Change
Total Budget Authority	\$917.1	\$922.0	0.5
Less Excluded Fee Items	-23.1	-43.8	89.6
Balance	894.0	878.2	-1.7
Fee Recovery Percent	90	90	0.0
Total Amount to be Recovered:	804.6	790.4	-1.7
Adjustment USAID Rescission <sup>3</sup>	0.0	-0.1	-100.0
Total Amount to be Recovered Post USAID:	804.6	790.3	-1.8
10 CFR Part 171 Billing Adjustments:			

<sup>2</sup> For each table, numbers may not add due to rounding.

<sup>3</sup> The adjustment to the NRC's fee recovery amount associated with the USAID rescission is shown in Table 1. Because the USAID rescission amount was approximately \$0.1 million, the proportion of the USAID rescission applicable to each fee class is not shown in the accompanying tables for each fee class. Additional information on the amount of the USAID rescission applicable to each fee class is available in the work papers (ADAMS Accession No. ML18135A044).

Unpaid Current Year Invoices (estimated)	6.2	6.5	4.8
Less Payments Received in Current Year for Previous Year Invoices (estimated)	-4.9	-7.5	53.1
Subtotal	1.3	-1.0	-176.9
Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	805.9	789.3	-2.0
Less Estimated 10 CFR Part 170 Fees	-297.3	-280.8	-1.2
10 CFR Part 171 Fee Collections Required	\$508.6	\$508.5	0.0

### **FY 2018 Fee Collection — Professional Hourly Rate**

The NRC uses a professional hourly rate to assess fees for specific services provided by the NRC under 10 CFR part 170. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate will be applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for: 1) mission-direct program salaries and benefits; 2) mission-indirect program support; and 3) agency support (corporate support and the IG), and then subtracting certain offsetting receipts, and dividing this total by the mission-direct full-time equivalents (FTE) converted to hours. The NRC is adding the definitions for "mission-direct program salaries and benefits," "mission-indirect program support," and "agency support (corporate support and the IG)" to 10 CFR 170.3, "Definitions." The mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours. The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract

resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation (for this equation, “budgeted resources” does not include mission-direct contract resources):

$$\frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \text{Professional Hourly Rate} = \frac{\$768.8 \text{ million}}{1,851 \times 1,510} = \$275$$

For FY 2018, the NRC is increasing the professional hourly rate from \$263 to \$275. The 4.6 percent increase in the FY 2018 professional hourly rate is due primarily to the 7.3 percent decline in the number of mission-direct FTE compared to FY 2017, offset by a 2.4 percent decline in budgeted resources and a small increase in productive hours. The 7.3 percent decline in the number of mission-direct FTE was larger than the decline projected in the proposed rule due primarily to the exclusion of advanced reactor regulatory infrastructure activities and international activities from the fee-recoverable budget, which caused the mission-direct FTE assigned to these activities to be excluded from the professional hourly rate calculation. The FY 2018 estimated annual mission-direct FTE productive hours is 1,510 hours, up from 1,500 hours in FY 2017. This estimate, also referred to as the productive hours assumption, reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This excludes hours charged to annual leave, sick leave, holidays, training, and general administration tasks. Table II shows the professional hourly rate calculation methodology. The FY 2017 amounts are provided for comparison purposes.

**TABLE II. PROFESSIONAL HOURLY RATE CALCULATION****[Dollars in millions, except as noted]**

	FY 2017 Final Rule	FY 2018 Final Rule	Percentage Change
Mission-Direct Program Salaries & Benefits	\$340.6	\$325.7	-4.4
Mission-Indirect Program Support	137.3	135.0	-1.7
Agency Support (Corporate Support and the IG)			
	309.6	308.1	-0.4
Subtotal	787.5	768.8	-2.4
Less Offsetting Receipts <sup>4</sup>	-0.1	0.0	100.0
Total Budgeted Resources Included in Professional Hourly Rate	\$787.4	\$768.8	-2.4
Mission-Direct FTE (Whole numbers)	1,996	1,851	-7.3
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,500	1,510	0.7
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours) (In Millions)			
	3.0	2.8	-6.7
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)			
	\$263	\$275	4.6

**FY 2018 Fee Collection — Flat Application Fee Changes**

The NRC is amending the flat application fees that it charges to applicants for import and export licenses, applicants for materials licenses and other regulatory services, and holders of materials in its schedule of fees in §§ 170.21 and 170.31 to

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<sup>4</sup> The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity (financial protection required of licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in Office of Management and Budget (OMB) Circular A-25, User Charges. The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The indemnity activities are allocated under the Licensing Actions and the Research & Test Reactors products within the Operating Reactors business line.



reflect the revised professional hourly rate of \$275 and the exclusion of international activities from the fee-recoverable budget. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2018. The NRC analyzes the actual hours spent performing licensing actions and then estimates the average professional staff hours that are needed to process licensing actions as part of its biennial review of fees, which is required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review in FY 2017 and will perform this review again in FY 2019. The higher professional hourly rate of \$275 is the primary reason for the increase in flat application fees. Please see the work papers for more detail (ADAMS Accession No. ML18135044).

The NRC rounds these flat fees in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under \$1,000 are rounded to the nearest \$10, fees between \$1,000 and \$100,000 are rounded to the nearest \$100, and fees greater than \$100,000 are rounded to the nearest \$1,000.

The licensing flat fees are applicable for certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Because the enacted budget excludes international activities from the fee-recoverable budget, import and export licensing actions, wholly funded through the international activities product line, (see fee categories K.1. through K.5. of § 170.21 and fee categories 15.A. through 15.R. of § 170.31) will not be charged fees under the final rule. To implement this, the NRC has revised fee categories K.1. through K.5. of § 170.21 and fee categories 15.A.

through 15.R. of § 170.31 and included a new footnote in these tables.<sup>5</sup> Applications filed on or after the effective date of the FY 2018 final fee rule will be subject to the revised fees in this final rule.

### **FY 2018 Fee Collection — Fee-Relief and Low-Level Waste (LLW) Surcharge**

As previously noted, OBRA-90 requires the NRC to recover approximately 90 percent of its annual budget authority for the fiscal year. The NRC applies the remaining 10 percent that is not recovered to offset certain budgeted activities—see Table III for a full listing of these “fee-relief” activities. If the amount budgeted for these fee-relief activities is greater or less than 10 percent of the NRC’s annual budget authority (less the fee-recovery exclusions), then the NRC applies a fee adjustment (either an increase or decrease) to all licensees’ annual fees, based on their percentage share of the NRC’s budget.

In FY 2018, the amount budgeted for fee-relief activities is less than the 10-percent threshold—therefore, the NRC will assess a fee-relief credit that decreases all licensees’ annual fees based on their percentage share of the budget. The credit is due primarily to the exclusion of international activities from the fee-recoverable budget. Table III summarizes the fee-relief activities budgeted for FY 2018. The FY 2017 amounts are provided for comparison purposes.

### **TABLE III. FEE-RELIEF ACTIVITIES**

**[Dollars in millions]**

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<sup>5</sup> The NRC has also removed the language relating to international activities in §§ 171.15(d)(1)(ii) and 171.16(e)(2) (which pertain to the fee-relief adjustment) because the enacted budget excludes international activities from the fee-recoverable budget and thus international activities are not included in fee relief under the FY 2018 final fee rule.

Fee-Relief Activities	FY 2017 Budgeted Costs	FY 2018 Budgeted Costs	Percentage Change
1. Activities not attributable to an existing NRC licensee or class of licensees:			
a. International activities <sup>6</sup>	\$13.8	\$0.0	-100.0
b. Agreement State oversight	12.9	13.5	4.5
c. Scholarships and Fellowships	17.9	15.0	-16.2
d. Medical Isotope Production Infrastructure	4.2	3.9	-7.1
2. Activities not assessed under 10 CFR part 170 service fees or 10 CFR part 171 annual fees based on existing law or Commission policy:			
a. Fee exemption for nonprofit educational institutions	9.7	8.7	-9.9
b. Costs not recovered from small entities under § 171.16(c)	7.4	6.6	-10.8
c. Regulatory support to Agreement States	18.5	17.4	-5.9
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	14.6	14.5	-1.0
e. <i>In Situ</i> leach rulemaking and unregistered general licensees	1.4	1.5	7.1
f. Potential Department of Defense remediation program MOU activities	1.1	1.2	2.0
g. Non-military radium sites	N/A	1.7	N/A
Total fee-relief activities	101.5	83.9	-17.3
Less 10 percent of the NRC's total FY budget (less the fee recovery exclusions)	-89.4	-87.8	1.8
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	\$12.1	-\$3.9	-132.6

<sup>6</sup> In prior years, this fee-relief category included amount includes international assistance activities. This fee-relief category also included conventions and treaty activities that are not attributable to an existing NRC licensee or class of licensees, and it included international cooperation activities that are not attributable to an existing NRC licensee or class of licensees.

Table IV shows how the NRC allocates the \$3.9 million fee-relief credit to each licensee fee class. Also, in accordance with the staff requirements memorandum (SRM) dated September 7, 2017 (ADAMS Accession No. ML17250A841), for SECY-17-0026, “Policy Considerations and Recommendations for Remediation of Non-Military, Unlicensed Historic Radium Sites in Non-Agreement States” dated February 22, 2017 (ADAMS Accession No. ML17130A783), the NRC has established a new fee-relief category for non-military sites contaminated due to historic uses of radium.

In addition to the fee-relief credit, the NRC also assesses a generic LLW surcharge of \$3.4 million. Disposal of LLW occurs at commercially operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC allocates this surcharge to its licensees based on data available in the U.S. Department of Energy’s (DOE’s) Manifest Information Management System (MIMS). This database contains information on total LLW volumes and NRC usage information from four generator classes: academic, industrial, medical, and utility. The ratio of utility waste volumes to total LLW volumes over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and materials fee classes. The materials portion is adjusted to account for the fact that a large percentage of materials licensees are licensed by the Agreement States rather than the NRC.

The LLW surcharge amounts have changed since the proposed rule. After the NRC published the proposed rule for public comment, DOE updated the MIMS system with 2017 data. As a result of the update, the LLW surcharge for Operating Power Reactors fee class increased from \$1.4 million to \$2.6 million. For Fuel Facilities and

Material Users, it decreased from \$1.6 million to \$0.7 million and from \$0.4 million to \$0.2 million, respectively. Additional details about these changes to the LLW surcharge resulting from DOE's update to the MIMS system can be found in Section IV(I).

Table IV shows the LLW surcharge and fee-relief credit, and its allocation across the various fee classes.

**TABLE IV. ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE,  
FY 2018  
[Dollars in millions]**

	LLW Surcharge		Fee-Relief Adjustment		Total
	Percent	\$	Percent	\$	\$
Operating Power Reactors	75.0	2.6	85.1	-3.4	-0.8
Spent Fuel Storage/Reactor Decommissioning	0.0	0.0	4.4	-0.2	-0.2
Research and Test Reactors	0.0	0.0	0.3	0.0	0.0
Fuel Facilities	20.0	0.7	4.6	-0.2	0.5
Materials Users	5.0	0.2	3.4	-0.1	0.0
Transportation	0.0	0.0	0.5	0.0	0.0
Rare Earth Facilities	0.0	0.0	0.0	0.0	0.0
Uranium Recovery	0.0	0.0	1.7	-0.1	-0.1
Total	100.0	3.4	100.0	-3.9	-0.5

#### **FY 2018 Fee Collection — Revised Annual Fees**

In accordance with SECY-05-0164, "Annual Fee Calculation Method," dated September 15, 2005 (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. "Rebaselining" entails analyzing the budget in detail and then

allocating the budgeted costs to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC revised its annual fees in §§ 171.15 and 171.16 to recover approximately 90 percent of the NRC's FY 2018 budget authority (less the fee-recovery exclusions and the estimated amount to be recovered through 10 CFR part 170 fees). The total estimated 10 CFR part 170 collections for this final rule are \$280.8 million, a decrease of \$16.6 million from the FY 2017 fee rule. The NRC, therefore, must recover \$508.5 million through annual fees from its licensees; an amount identical to the annual fees collected by the FY 2017 final fee rule.

Table V shows the final rebaselined fees for FY 2018 for a representative list of license categories. The FY 2017 amounts are provided for comparison purposes.<sup>7</sup>

**TABLE V. REBASELINED ANNUAL FEES**

Class/Category of License	FY 2017 Final Annual Fee	FY 2018 Final Annual Fee	Percentage Change
Operating Power Reactors	\$4,308,000	\$4,333,000	0.6
+ Spent Fuel Storage/Reactor Decommissioning	\$188,000	\$198,000	5.3
Total, Combined Fee	\$4,496,000	\$4,531,000	0.8
Spent Fuel Storage/Reactor Decommissioning	\$188,000	\$198,000	5.3
Research and Test Reactors (Non-power Reactors)	\$81,400	\$81,300	-0.1
High Enriched Uranium Fuel Facility	\$7,255,000	\$7,346,000	1.3
Low Enriched Uranium Fuel Facility	\$2,629,000	\$2,661,000	1.2
UF <sub>6</sub> Conversion and Deconversion Facility	\$1,498,000	\$1,517,000	1.3

<sup>7</sup> For each fee class, the FY 2017 fees and percentage change are shown for comparison purposes.

Conventional Mills	\$38,900	\$38,800	-0.3
Typical Materials Users:			
Radiographers (Category 3O)	\$27,000	\$25,000	-7.4
Well Loggers (Category 5A)	\$16,000	\$14,900	-6.9
All Other Specific Byproduct Material Licensees (Category 3P)	\$9,300	\$8,600	-7.5
Broad Scope Medical (Category 7B)	\$33,800	\$30,900	-8.6

The work papers that support this final rule show in detail how the NRC allocates the budgeted resources for each class of license and calculates the fees.

Paragraphs a. through h. of this section describe budgeted resources allocated to each class of license and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers.

a. Fuel Facilities

The NRC will collect \$27.7 million in annual fees from the fuel facilities class.

**TABLE VI. ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES**

**[Dollars in millions]**

Summary Fee Calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total budgeted resources	\$33.9	\$35.2	3.8
Less estimated 10 CFR part 170 receipts	-9.6	-9.2	-4.2
Net 10 CFR part 171 resources	24.3	26.0	7.0
Allocated generic transportation	1.6	1.3	-1.9
Fee-relief adjustment/LLW surcharge	2.5	0.5	-80.0
Billing adjustments	0.0	0.0	0.0
Total remaining required annual fee	\$28.4	\$27.7	-2.5

recovery <sup>8</sup>			
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In FY 2018, the fuel facilities budgeted resources increased slightly due to a 5.3 percent increase in the fully costed FTE rate and the transfer of 1 FTE of enforcement resources from the nuclear materials user fee class to the fuel facilities fee class to reflect the fee class benefiting from the work being performed by this FTE. The estimated 10 CFR part 170 billings declined by \$0.4 million as a result of completing license renewals for GE Vallecitos and Westinghouse, as well as declining inspection workload for Honeywell. There was also a reduction to the LLW surcharge allotment because of decreased usage of LLW by this fee class as a percentage of licensees.

The NRC allocates annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are presented in Table VII). The annual fees are then distributed across the fee class based on the regulatory effort reflected in the matrix.

**TABLE VII. EFFORT FACTORS FOR FUEL FACILITIES,  
FY 2018**

Facility Type (fee category)	Number of Facilities	Effort Factors	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	96

<sup>8</sup> See Table VII for percentage change for each fee category.



Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	30
Limited Operations (1.A.(2)(a))	0	0	0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	21	23
UF <sub>6</sub> Conversion and Deconversion (2.A.(1))	1	12	7

In FY 2018, the total remaining required annual fee recovery amount of \$27.7 million is comprised of safety activities, safeguards activities and the fee-relief adjustment/LLW surcharge. For FY 2018, the total budgeted resources to be recovered as annual fees for safety activities are \$15.0 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percent of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, \$12.2 million, to each fee category based on its percent of the total regulatory effort for safeguards activities. Finally, the portion of the fee-relief adjustment/LLW surcharge associated with the fuel facility fee class—\$0.5 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. In comparison to FY 2017, there was a decrease of 2.5 percent for the total remaining required annual fee recovery in FY 2018 (see Table VI). However, there was an increase of approximately 1.3 percent in each fee category in FY 2018. The differences in the changes to the total required annual fee recovery and the annual fees for each fee

category is due to two licensees leaving the fee class in FY 2017. The fee for each facility is summarized in Table VIII.

**TABLE VIII. ANNUAL FEES FOR FUEL FACILITIES**

Facility Type (fee category)	FY 2017 Final Annual Fee	FY 2018 Final Annual Fee	Percentage Change
High-Enriched Uranium Fuel (1.A.(1)(a))	\$7,255,000	\$7,346,000	1.3
Low-Enriched Uranium Fuel (1.A.(1)(b))	\$2,629,000	\$2,661,000	1.2
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	\$1,366,000	N/A <sup>9</sup>	N/A
Hot Cell (and others) (1.A.(2)(c))	\$710,000	N/A <sup>10</sup>	N/A
Uranium Enrichment (1.E.)	\$3,470,000	\$3,513,000	1.2
UF <sub>6</sub> Conversion and Deconversion (2.A.(1))	\$1,498,000	\$1,517,000	1.3

b. Uranium Recovery Facilities

The NRC will collect \$0.5 million in annual fees from the uranium recovery facilities fee class, a decrease of 50.0 percent from FY 2017.

**TABLE IX. ANNUAL FEE SUMMARY CALCULATIONS  
FOR URANIUM RECOVERY FACILITIES**

**[Dollars in millions]**

Summary fee calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total budgeted resources	\$14.3	\$13.5	-5.6
Less estimated 10 CFR part 170 receipts	-13.5	-12.9	-4.4

<sup>9</sup> No licensees in this fee category in FY 2018.

Net 10 CFR part 171 resources	0.8	0.6	-25.0
Allocated generic transportation	N/A	N/A	N/A
Fee-relief adjustment	0.2	-0.1	-150.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	\$1.0	\$0.5	-50.0

In comparison to FY 2017, the FY 2018 budgeted resources for uranium recovery licensees decreased due to reductions in associated licensing work, realignment of the Uranium Mill Tailings Radiation Control Act (UMTRCA) program, and completed reviews for license amendments for Strata Energy and Jane Dough, offset by increased workload for the Marsland license amendment review.

The NRC computes the annual fee for the uranium recovery fee class by dividing the total annual fee recovery amount among DOE and the other licensees in this fee class. The annual fee decreased for the DOE/UMTRCA program due to the decreased budgeted resources and an increase in 10 CFR part 170 billings for the Atlantic Richfield Bluewater disposal site review. The annual fee decreased slightly for the remaining uranium recovery licensees due to the fee relief credit. This was offset by a decrease in estimated 10 CFR part 170 billings for completed reviews for license amendments for Strata Energy and Jane Dough. There was an increase in 10 CFR part 170 billings for the Marsland license amendment review, which also contributed to the slight decrease in annual fees.

The NRC regulates DOE's Title I and Title II activities under UMTRCA<sup>10</sup> and the annual fee to DOE includes the costs specifically budgeted for the NRC's UMTRCA Title I and Title II activities, as well as 10 percent of the remaining budgeted costs for this fee class. The annual fee decreased for the overall fee class due to the decrease in budgeted resources. The NRC assesses the remaining 90 percent of its budgeted costs to the rest of the licensees in this fee class, as described in the work papers. This is reflected in Table X as follows:

**TABLE X. COSTS RECOVERED THROUGH ANNUAL FEES;  
URANIUM RECOVERY FEE CLASS**

Summary of Costs:	FY 2017 Final Annual Fee	FY 2018 Final Annual Fee	Percentage Change
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses: UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	\$574,595	\$80,921	-85.9
10 percent of generic/other uranium recovery budgeted costs	19,079	47,723	150.1
10 percent of uranium recovery fee-relief adjustment	21,940	-6,724	-130.6
Total Annual Fee Amount for DOE (rounded)	616,000	122,000	-80.2
Annual Fee Amount for Other Uranium Recovery Licenses: 90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for UMTRCA Title I and Title II activities	171,714	429,509	150.1
90 percent of uranium recovery fee-relief adjustment	197,464	-60,517	-130.6
Total Annual Fee Amount for Other Uranium Recovery Licenses	\$369,178	\$368,992	-0.1

<sup>10</sup> The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

Further, for the non-DOE licensees, the NRC continues to use a matrix to determine the effort levels associated with conducting the generic regulatory actions for the different licensees in this fee class; this is similar to the NRC's approach for fuel facilities, described previously.

The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities; mill tailings disposal facilities; and uranium water treatment facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (for more information, see the work papers). Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

**TABLE XI. BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES**

Fee Category	Number of Licensees	Benefit Factor Per Licensee	Total Value	Benefit Factor Percent Total
Conventional and Heap Leach mills (2.A.(2)(a))	1	150	150	10.5
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b))	5	190	950	66.7
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c))	1	215	215	15.1
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	1	85	85	6.0
Uranium water treatment (2.A.(5))	1	25	25	1.7
Total	9	665	1,425	100.0

Applying these factors to the approximately \$368,992 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category, as summarized in Table XII.

**TABLE XII. ANNUAL FEES FOR URANIUM RECOVERY LICENSEES  
(Other than DOE)**

Facility Type (fee category)	FY 2017 Final Annual Fee	FY 2018 Final Annual Fee	Percentage Change
Conventional and Heap Leach mills (2.A.(2)(a))	\$38,900	\$38,800	-0.3
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b))	\$49,200	\$49,200	0.0
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c))	\$55,700	\$55,700	0.0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	\$22,000	\$22,000	0.0
Uranium water treatment (2.A.(5))	\$6,500	\$6,500	0.0

c. Operating Power Reactors

The NRC will collect \$428.9 million in annual fees from the power reactor fee class in FY 2018, as shown in Table XIII. The FY 2017 fees and percentage change are shown for comparison purposes.

**TABLE XIII. ANNUAL FEE SUMMARY CALCULATIONS FOR  
OPERATING POWER REACTORS  
[Dollars in millions]**

Summary Fee Calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total budgeted resources	\$670.3	\$669.9	0.0
Less estimated 10 CFR part 170 receipts	-256.3	-239.6	-6.5
Net 10 CFR part 171 resources	414.0	430.4	4.0
Allocated generic transportation	0.3	0.3	0.0
Fee-relief adjustment/LLW surcharge	11.1	-0.8	-107.2
Billing adjustment	1.1	-0.9	-181.8
Total required annual fee recovery	426.5	428.9	0.6
Total operating reactors	99	99	0.0
Annual fee per reactor	4.308	4.333	0.6

In comparison to FY 2017, the operating power reactors budgeted resources decreased slightly by \$0.4 million due to a decline in FTEs needed for Fukushima-related work and combined license reviews. This decline in FTEs, however, was offset by increases in contract costs associated with research in the areas of safety and security of digital systems, materials degradation, the aging of cables, and the effects of concrete degradation.<sup>11</sup> In FY 2018, contract costs also increased to support the new reactor design certification and early site permit reviews, as well as related infrastructure and technical assistance.

Estimated billings under 10 CFR part 170 also slightly declined primarily due to South Carolina Electric and Gas Company's decision to abandon the construction of the two new nuclear units at V.C. Summer Nuclear Station.

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<sup>11</sup> These contract costs were funded with prior year unobligated carryover in FY 2017, and thus, were not included in the FY 2017 final fee rule.

The budgeted resources are divided equally among the 99 operating power reactors, resulting in an annual fee of \$4,333,000 per reactor. Additionally, each licensed power reactor is assessed the FY 2018 spent fuel storage/reactor decommissioning annual fee of \$198,000 (see Table XIV and the discussion that follows). The combined FY 2018 annual fee for operating power reactors is, therefore, \$4,531,000.

On May 24, 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water small modular reactors (SMRs). Under the variable annual fee structure, effective June 23, 2016, an SMR's annual fee would be calculated as a function of its licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2018 for this type of licensee.

d. Spent Fuel Storage/Reactor Decommissioning

The NRC will collect \$24.2 million in annual fees from 10 CFR part 50 power reactors, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license, to collect the budgeted costs for spent fuel storage/reactor decommissioning.

**TABLE XIV. ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR DECOMMISSIONING FEE CLASS**

**[Dollars in millions]**

Summary Fee Calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total budgeted resources	\$29.5	\$33.8	14.6
Less estimated 10 CFR part 170 receipts	-7.9	-10.2	29.1
Net 10 CFR part 171 resources	21.6	23.7	9.7



Allocated generic transportation costs	0.8	0.7	12.5
Fee-relief adjustment	0.5	-0.2	-140.0
Billing adjustments	0.1	0.0	-100.0
Total required annual fee recovery	23.0	24.2	5.2
Total spent fuel storage facilities	122	122	0.0
Annual fee per facility	\$0.188	\$0.198	5.3

Compared to FY 2017, the FY 2018 budgeted resources for spent fuel storage/reactor decommissioning increased due to: 1) an increase in resources to support the safety, security, emergency preparedness, and environmental reviews for two applications for consolidated interim storage facilities; and 2) efforts to consolidate the standard review plan for all facilities in the fee class. For this fee class, estimated billings under 10 CFR part 170 increased slightly due to an anticipated increase in workload for the Holtec International consolidated interim storage facility application, a renewal request for DOE Idaho, and an amendment request by TN Americas. This increase in 10 CFR part 170 estimated billings was partly offset due to suspension of the review for the Waste Control Specialists consolidated interim storage facility application.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in an FY 2018 annual fee of \$198,000 per licensee.

e. Research and Test Reactors (Non-power Reactors)

The NRC will collect \$0.325 million in annual fees from the research and test reactor licensee class.

**TABLE XV. ANNUAL FEE SUMMARY CALCULATIONS FOR  
RESEARCH AND TEST REACTORS**

**[Dollars in millions]**

Summary Fee Calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total budgeted resources	\$1.982	\$2.009	1.4
Less estimated 10 CFR part 170 receipts	-1.724	-1.698	-1.5
Net 10 CFR part 171 resources	0.258	0.311	20.5
Allocated generic transportation	0.034	0.027	-20.6
Fee-relief adjustment	0.031	-0.010	-67.7
Billing adjustments	0.003	-0.003	-200.0
Total required annual fee recovery	0.326	0.325	-0.3
Total research and test reactors	4	4	0.0
Total annual fee per reactor	\$0.0814	\$0.0813	-0.1

For this fee class, the budgeted resources increased due to an increase in the fully costed FTE rate. Despite the increase in budgeted resources, the final FY 2018 annual fee decreased due to an increase in the fee-relief credit and a reduction in generic transportation costs from FY 2017. These were offset by a decline in estimated 10 CFR part 170 billings due to the lower than projected workload associated with the delayed construction and license application submission schedules of two medical isotope production facilities. This decline was offset by increases in estimated 10 CFR part 170 billings for Aerotest's license renewal and continued project management activities for the four research and test reactor sites.

The required annual fee-recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2018 annual fee of \$81,300 for each licensee.

f. Rare Earth

The NRC has not allocated any budgeted resources to this fee class; therefore, the NRC is not issuing an annual fee in FY 2018.

g. Materials Users

The NRC will collect \$32.4 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70.

**TABLE XVI. ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS**  
[Dollars in millions]

Summary Fee Calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total budgeted resources for licensees not regulated by Agreement States	\$33.7	\$32.1	-4.7
Less estimated 10 CFR part 170 receipts	-0.9	-0.9	0.0
Net 10 CFR part 171 resources	32.8	31.1	-5.2
Allocated generic transportation	1.6	1.3	-18.8
Fee-relief adjustment/LLW surcharge	0.9	0.0	-100.0
Billing adjustments	0.1	0.0	-100.0
Total required annual fee recovery	35.4	32.4	-8.5

The annual fee for these categories of materials users' licenses is developed as follows: Annual Fee = Constant x [Application Fee + (Average Inspection Cost / Inspection Priority)] + Inspection Multiplier x (Average Inspection Cost / Inspection Priority) + Unique Category Costs. The total annual fee recovery for FY 2018 consists of the following: \$24.9 million for general costs, \$7.2 million for inspection costs, \$0.3 million for unique costs for medical licenses, and \$0.04 million for the fee relief

adjustment/LLW surcharge. To equitably and fairly allocate the \$32.4 million required to be collected among approximately 2,600 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse fee categories. This fee-calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The NRC is decreasing the annual fees for most materials licensees in this fee class in FY 2018 due to a reduction in budgeted resources for oversight activities through implementation of process enhancements and rebaselining of the materials program under Project Aim.

The constant multiplier is established in order to recover the total general costs (including allocated generic transportation costs) of \$24.9 million. To derive the constant multiplier, the general cost amount is divided by the product of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.36 for FY 2018. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of \$275. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the \$7.2 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the product of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.39 for FY 2018. The unique category costs are any special costs that the NRC has budgeted for a specific

category of licenses. For FY 2018, unique category costs include approximately \$0.3 million in budgeted costs for the implementation of revised 10 CFR part 35, “Medical Use of Byproduct Material,” which has been allocated to holders of NRC human-use licenses.

The annual fee assessed to each licensee also includes a share of the \$0.1 million fee-relief credit assessment allocated to the materials users fee class (see Table IV, “Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2018,” in Section III, “Discussion,” of this document), and for certain categories of these licensees, a share of the approximately \$0.2 million LLW surcharge costs allocated to the fee class. The annual fee for each fee category is shown in the revision to § 171.16(d).

#### h. Transportation

The NRC will collect \$1.1 million in annual fees to recover generic transportation budgeted resources. The FY 2017 values are shown for comparison purposes.

**TABLE XVII. ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION**  
**[Dollars in millions]**

Summary Fee Calculations	FY 2017 Final	FY 2018 Final	Percentage Change
Total Budgeted Resources	\$8.9	\$7.9	-11.2
Less Estimated 10 CFR part 170 Receipts	-3.1	-3.1	0.0
Net 10 CFR part 171 Resources	5.8	4.7	-19.0
Less Generic Transportation Resources <sup>12</sup>	-4.5	-3.6	-20.0
Fee-relief adjustment/LLW surcharge	0.0	0.0	0.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	\$1.5	\$1.1	-28.5

<sup>12</sup> New line item added to enhance clarity.

In comparison to FY 2017, the total budgeted resources for FY 2018 for generic transportation activities decreased due to a decline in the expected number of major licensing actions to be completed in FY 2018 and a reduction in the Certificates of Compliance (CoCs) for DOE (from 22 to 21). There was also a decline in budgeted resources within licensing and rulemaking support due to a transfer of certain budgeted resources to the spent fuel storage/reactor decommissioning fee class.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A. for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered. The final annual fee decrease for DOE is mainly due to a decrease in CoCs from 22 to 21 in FY 2018.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Note that for the research and test reactors fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although four CoCs benefit the entire research and test reactor class, only 4 out of 31 research and test reactors are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactors annual fees has been adjusted to 0.5 so the research and test reactors subject to annual fees are charged a fair and equitable portion of the total. For more information, see the work papers.

**TABLE XVIII. DISTRIBUTION OF TRANSPORTATION RESOURCES,  
FY 2018 [Dollars in millions]**

Licensee Fee Class/DOE	Number of CoCs Benefiting Fee Class or DOE	Percentage of Total CoCs	Allocated Generic Transportation Resources
Materials Users	25.0	27.9	\$1.3
Operating Power Reactors	5.0	5.6	0.3
Spent Fuel Storage/Reactor Decommissioning	14.0	15.6	0.7
Research and Test Reactors	0.5	0.6	0.0
Fuel Facilities	24.0	26.8	1.3
Sub-Total of Generic Transportation Resources	68.5	76.5	3.6
DOE	21.0	23.5	1.1
Total	89.5	100.0	\$4.7

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

#### **FY 2018 — Policy Change**

The NRC makes one policy change for FY 2018:

#### **Changes to Small Materials Users Fee Categories for Locations of Use**

The NRC adds new fee subcategories to seven existing fee categories under 10 CFR 170.31, “Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,” and 10 CFR 171.16, “Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC.” Generally speaking, 10 CFR 170.31 assigns the same fee to each licensee in the fee category, regardless of the number of locations where the licensee is authorized to work. Yet for some of these fee categories, the NRC staff recently determined that it spends a disproportionate amount of time on licensees with six or more locations compared to licensees in the same fee category with fewer than six locations. Therefore, the NRC is revising its fee categories so that these fees better align with the actual costs of providing regulatory services.

Previously—in the FY 2015 final fee rule—the NRC added three fee subcategories under one fee category, 3.L. (research and development broad scope) for licenses with six or more locations of use. Although there are 14 additional fee categories that could be modified, the NRC determined that most affected licenses are covered under 7 of the 14 fee categories. Accordingly, the NRC is adding subcategories to these seven fee categories:

- Manufacturing broad scope licenses under fee category 3.A.
- Other manufacturing licenses under fee category 3.B.
- Medical product distribution licenses under fee category 3.C.
- Industrial radiography licenses under fee category 3.O.
- Other byproduct licenses (e.g., portable and fixed gauges, measuring systems) under fee category 3.P.



- Medical licenses under fee categories 7.A. and 7.B.

To more accurately reflect the cost of services provided by the NRC, this change results in each fee category having subcategories for 1-5, 6-20, and more than 20 locations of use. The NRC is also amending footnotes 9, 18, and 19, as numbered in the final rule, in § 171.16 and footnotes 7, 9, and 10 in § 170.31 to reflect the new fee subcategories.

### **FY 2018 — Administrative Changes**

The NRC is making ten<sup>13</sup> of the eleven proposed administrative changes in this final rule:

1. Revise the methodology of charging licensees for overhead time for project managers (PMs) and resident inspectors (RIs).

The NRC is revising the methodology for charging licensees for overhead time for PMs and RIs. The prior approach was that the NRC included an overhead cost of 6 percent of direct billable costs to all licensees' invoices. The overhead charge was intended to recover the full cost for PM and RI activities that provide a direct benefit to the assigned licensee or site.

In FY 2015 to FY 2017, this 6-percent value was based on the analysis of 4 years of billing data (FY 2011 to FY 2014) for overhead activities recorded in the time and labor system by a PM or RI and billed to the dockets to which the PM or the RI were officially assigned. The NRC has reviewed the process and, as a process enhancement, created docket-related fee-billable cost activity codes to replace the prior 6-percent approach. Consistent with 10 CFR 170.12(c)(1), which requires the NRC to assess fees to recover full cost for each RI (including the senior RI) assigned to a specific plant or

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<sup>13</sup> The change identified as item No.10 is not being made as part of the final rule.

facility (i.e., “all time in a non-leave status,” excluding time spent in support of activities at another site), RIs (including senior RIs) will begin recording time to these new docket-related fee-billable cost activity codes at the end of FY 2018. These new docket-related fee-billable cost activity codes will not be used by PMs. Agency efforts have significantly reduced the use of non-fee-billable overhead associated with PMs through improvements in the timekeeping system, additional staff training, and more robust control of hours recorded to the cost activity codes by the PMs. The agency continues to monitor the proper use of the limited range of indirect activities.

The first invoice without the 6-percent overhead charge will be issued in January 2019. Instead, the licensee invoices will include the actual hours for RI activities that support and directly benefit the assigned licensee or site. The licensees should expect to see a cost activity code on their invoices which references these RI indirect hours.

2. Add definitions for inputs in the professional hourly rate calculation in 10 CFR part 170, “Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1954, as Amended.”

In response to the recommendations in the U.S. Government Accountability Office (GAO) report titled “Nuclear Regulatory Commission: Regulatory Fee-Setting Calculations Need Greater Transparency” (GAO-17-232), dated February 2, 2017, the NRC committed to add definitions for the professional hourly rate components in 10 CFR part 170 during the FY 2018 fee rulemaking. The NRC, therefore, adds the definitions for “agency support (corporate support and the IG),” “mission-direct program salaries and benefits,” and “mission-indirect program support” to 10 CFR 170.3, “Definitions.”

3. Delete the definition of “overhead and general and administrative costs” from 10 CFR 170.3 and 10 CFR 171.5.

The term “overhead and general and administrative costs” is currently defined in 10 CFR 170.3 and 10 CFR 171.5, but it is not used in 10 CFR parts 170 and 171. Nor do the subordinate elements of the definition—“Government benefits,” “travel costs,” “overhead,” “administrative support costs,” and “indirect costs”—appear elsewhere in 10 CFR parts 170 and 171. The NRC, therefore, deletes these definitions to enhance clarity.

4. Amend language under 10 CFR 170.11, “Exemptions,” to add a new paragraph to include the timeframe in which a request for a fee exemption must be submitted to the Chief Financial Officer (CFO) under 10 CFR part 170.

The NRC is amending its exemption requirements to specify that a request for a fee exemption under 10 CFR 170.11(a)(1) must be submitted to the CFO within 90 days of the date of the NRC’s receipt of the work.

5. Amend language under 10 CFR 170.31, “Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections, and Import and Export Licenses,” and 10 CFR 171.16, “Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC,” to enhance clarity.

When a materials license (or part of a materials license) changes from operational to decommissioning status, it transitions to fee category 14.A. There are two aspects of the fee treatment that follows transition to fee category 14.A. First, the materials license (or part of a materials license) that transitions to fee category 14.A is assessed full cost fees under 10 CFR part 170, even if, before the transition to this fee category, the licensee was assessed flat fees under 10 CFR part 170. Second, the materials license (or part of a materials license) that transitions to fee category 14.A is

not assessed annual fees under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status. This final rule adds a new footnote to the table in 10 CFR 170.31 and to the table in 10 CFR 171.16 to emphasize the fee treatment that follows a transition to fee category 14.A.

The NRC also adds new language to the description of fee category 14.A. in both 10 CFR 170.31 and 171.16 in order to enhance clarity regarding when a materials license (or part of a materials license) transitions to fee category 14.A. Specifically, this transition occurs when a licensee has permanently ceased principal activities. For guidance on what constitutes “permanently ceasing principal activities,” please see Regulatory Issue Summary 2015-19, “Decommissioning Timeliness Rule Implementation and Associated Regulatory Relief” (September 27, 2016, ADAMS Accession No. ML16008A242).

6. Amend language under 10 CFR 171.3 and 10 CFR 171.16(a) to clarify when the assessment of annual fees begins for uranium recovery and fuel facility licensees.

Both uranium recovery and fuel facilities licenses include a condition that the NRC must complete a post-construction, pre-operational inspection to authorize a licensee to possess and use source material. In the FY 2007 final fee rule, the NRC added language to 10 CFR 171.3 and 10 CFR 171.16(a) to codify its policy that annual fees for uranium enrichment facilities will be assessed after the NRC verifies through inspection that the facility has been constructed in accordance with the requirements of the license. The NRC is amending those sections to codify the policy that the assessment of annual fees for uranium recovery or fuel facility licensees, including

uranium enrichment facility licensees, begins after the NRC inspection verifies that the facility has been constructed in accordance with the requirements of the license.

7. Amend footnote 9 to the table in 10 CFR 171.16(d) for clarity.

The NRC revises footnote 9 to clarify that nuclear medicine licensees under fee category 7.A. are not assessed a separate annual fee for pacemaker licenses.

8. Delete footnote 15 to the table in 10 CFR 171.16(d).

The NRC deletes footnote 15 because footnote 16 is more comprehensive and already includes the relevant information from footnote 15. The current footnote 16 is renumbered as footnote 15, and the footnotes that follow current footnote 16 are renumbered. All references to these footnotes in fee categories are adjusted accordingly.

9. Amend footnote 16 to the table in 10 CFR 171.16(d) for clarity.

The NRC renumbers footnote 16 as footnote 15, as indicated, and revises it to clarify that licensees paying fees under fee category 17 are not subject to additional fees listed in the table.

10. Proposal to add a new footnote to the table in 10 CFR 171.16(d) for clarity.

In the proposed fee rule, the NRC proposed to add a new footnote (footnote 20 in the proposed fee rule) to clarify when licensees are exempt from paying annual fees under a specific fee category when they are licensed under multiple fee categories. Specifically, the NRC proposed to add references to the new footnote 20 for fee categories 2.B., 3.N., and 3.P. The NRC, however, determined that the proposed footnote 20 was redundant to footnotes 17 and 18 for fee category 2B; to footnote 19 for fee category 3.P., as well as new fee categories 3.P(1) and 3.P(2). The language in the proposed footnote 20 was also determined to be redundant to the description for fee category 3.N. Therefore, the NRC does not add this footnote to the table in § 171.16(d).

11. Amend language under 10 CFR 171.17, “Proration,” to add a new sentence on the proration of fees.

This final rule revises language regarding 1) reactors; 2) licensees under 10 CFR part 72, “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,” who do not hold 10 CFR part 50, “Domestic Licensing of Production and Utilization Facilities,” licenses; and 3) materials licensees with annual fees of \$100,000 or greater for a single fee category. The NRC is basing the proration of annual fees for terminated and downgraded licensees on the fee rule in effect at the time the termination or downgrade action is official. The NRC bases the determinations on the proration requirements under 10 CFR 171.17(a)(2) and (3).

Prior to this final rule, proration was based on the fee rule for the current fiscal year. This prevents the NRC from accurately billing the licensee at the time the termination or downgrade action is official based on the proration requirements under 10 CFR 171.17(a)(2) and (3). The NRC had wait until the current year’s fee rule was effective (typically during the fourth quarter of a fiscal year) to either bill additional amounts or process refunds to the licensee based on the new fee rule amount.

This amendment allows the NRC to prorate annual fees based on the fee rule in effect at the time the termination or downgrade action is official based on the proration requirements under 10 CFR 171.17(a)(2) and (3), thereby providing improved transparency for fee adjustments in the fourth quarter of the fiscal year. This change supports the fair and equitable assessment of fees because it ties annual fee proration to when the license actually becomes downgraded or terminated.

**Update to the Fees Transformation Initiative**

The SRM, dated October 19, 2016 (ADAMS Accession No. ML16293A902), for SECY-16-0097, “Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule” (ADAMS Accession No. ML16194A365) directed staff to explore, as a voluntary pilot, whether a flat fee structure could be established for routine licensing matters in the area uranium recovery, and to accelerate the fees setting process improvements including the transition to an electronic billing system. With respect to the voluntary flat fees pilot, the staff has developed a project plan and is on target to complete this activity by September 2020. With respect to the fees setting process improvements, all 14 of the activities scheduled for FY 2017 and an additional 3 scheduled for FY 2018 were completed in FY 2017. These improvements included adding additional content to the FY 2018 Congressional Budget Justification (CBJ) to help licensees understand how the planned workload in the budget impacted fees, validating the budgeting process by comparing budgeted amounts with actual amounts in the CBJ, posting the estimated cost of various licensing actions for both the Reactors and Materials programs on the NRC’s public Web site, and modifying the calculation of full-cost fees to facilitate publishing the proposed and final fee rules earlier.

Two remaining fee setting improvements are scheduled to be completed for FY 2018. First, the change to the methodology for recovering RI/PM overhead costs is discussed in this document. Second, the NRC is adding an additional tab to the final fee rule work papers to improve transparency with the part 170 estimates impact on part 171 annual fees by disclosing the ratios of the estimated part 170 to part 171 collections for each fee class with the actual ratio of collections for FY 2017.

For the remaining process changes recommended for future consideration, the NRC is well-positioned to complete them on schedule. For more information, please see the fees transformation accomplishments schedule, located on the license fees Web site

at: <https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html>.



### III. Public Comment Analysis

#### Overview of Public Comments

The NRC received 13 written comment submissions on the proposed rule. A comment submission for the purpose of this rule is defined as a written communication or document submitted to the NRC by an individual or entity, with one or more distinct comments addressing a subject or an issue. A comment, on the other hand, refers to a statement made in the submission addressing a subject or issue. In general, the commenters were supportive of the specific proposed regulatory changes, although most commenters expressed concerns about broader fee-policy issues related to transparency, fairness, and overall size of the budget.

The commenters are listed in Table XIX.

**TABLE XIX. - FY 2018 PROPOSED FEE RULE COMMENTER SUBMISSIONS**

<b>Commenter</b>	<b>Affiliation</b>	<b>ADAMS Accession No.</b>	<b>Acronym</b>
John Snider	Anderson Engineering	ML18038B689	AE
Aaron Ahern	Unknown	ML18046A092	AA
W. B. Smith	Unknown	ML18052B512	WBS
Stephen Cowne	URENCO USA	ML18053A945	UUSA
David Shafer	U.S. Department of Energy, Office of Legacy Management	ML18053A946	DOE
J. Bradley Fewell	Exelon Generation Co. LLC	ML18054B354	EXN
Duane Bollig	Water Remediation Technology LLC	ML18057B073	WRT
Joyce Goldfield	Unknown	ML18057B550	JG
Douglas Weaver	Westinghouse Electric Co.	ML18057B551	WEC
Joseph Pollock	Nuclear Energy Institute (NEI)	ML18058A206	NEI-1
Pamela Cowan	NEI	ML18058A247	NEI-2
Tyson R. Smith	Honeywell International Inc.	ML18058A305	HW
Richard J. Freudenberger	Nuclear Fuel Services Inc.	ML18068A693	NFS

Information about obtaining the complete text of the comment submissions is available in Section XIV, “Availability of Documents,” of this document.

#### **IV. Public Comments and NRC Responses**

The NRC has carefully considered the public comments received on the proposed rule. The comments have been organized by topic. Comments from multiple commenters raising similar specific concerns were combined to capture the common essential issues raised by the commenters. Comments from a single commenter have been quoted to ensure accuracy; brackets within those comments are used show changes that have been made to the quoted comments. The NRC responses are preceded by a short summary of the issues raised by the commenters.

##### **A. Transparency and Public Participation**

*Comment:* To ensure a meaningful opportunity to comment on proposed fees, the commenters request that the NRC re-issue the proposed rule to reflect any final FY 2018 appropriations. If timing constrains the NRC’s ability to re-issue the proposed rule, the commenter requests that the NRC make publicly available as soon as possible a document reflecting how any FY 2018 appropriation will alter FY 2018 fees. Doing so will allow licensees to plan their internal budgets with more fidelity than continuing to rely on a proposed fee rule that is no longer valid. (EXN, NEI-1, NEI-2, NFS)

*Response:* Several commenters expressed a general desire for the NRC to re-publish the proposed rule for comment based on the final enacted appropriations; alternatively, the commenters wanted the newly determined fees based on the final appropriations to be made publicly available in advance of the final rule. The NRC disagrees with these comments. The NRC strives to ensure that the proposed fee rule is as accurate as possible and explains its assumptions about the budgetary resources

in order to provide the best information available regarding the fiscal year's proposed fees.

However, the NRC must comply with statutory requirements, including OBRA-90 and the Administrative Procedure Act (APA). The OBRA-90 requires the NRC to collect approximately 90 percent of its budget authority through fees assessed by the end of the fiscal year. Because the Office of Management and Budget has found the fee rule to be a major rule under the Congressional Review Act, the effective date of the final rule cannot be less than 60 days from the date of publication but must allow timely final billing prior to the end of the fiscal year. Because section 553 of the APA requires the NRC to give the public an opportunity to comment on a republished proposed rule, the NRC cannot republish the FY 2018 proposed fee rule, and meet its statutory requirement. No changes were made to the final rule as a result of these comments.

## **B. Budget Formulation**

*Comment:* In today's economic environment, NRC licensees are collectively taking actions to reduce the operating costs to secure continued operations. As reactors shut down, licensees idle facilities, and others delay operations, the NRC should take commensurate actions to reduce its budget, pursue meaningful efficiencies in operations, develop appropriate metrics, and improve the transparency and process for developing its budgets. (EXN, NEI-1, NEI-2, NFS, WEC)

*Response:* Several commenters expressed concern regarding the NRC's budget related to the loss of licensees from particular fee classes, the challenge to fees that result from potentially larger budgets, the proper use of metrics and methods to determine the appropriate budget size and justifications, and a request for a public comment period on the proposed budget.

The fees assessed to licensees and applicants by the NRC must conform to OBRA-90, which requires the NRC to collect approximately 90 percent of its annual

budget authority (less certain excluded items) through both user fees and annual fees. The NRC can assess these annual fees only to licensees or certificate holders, and the annual fee schedule must be fair and equitably allocate annual fees among the NRC's many licensees. To ensure compliance with OBRA-90, the NRC makes continual organizational improvements to align the resources needed to support its regulatory activities. These actions help mitigate impacts on the remaining licensees from licensees that leave a fee class by helping the NRC continue to develop budgets that account for regulating a fee class with a declining number of licensees.

The NRC continues to examine and pursue improvements to its process and increases in efficiency that will allow it to meet its statutory responsibilities as the industry changes. The NRC continues to develop methods that would allow for more rapid adaption to future needs, changes to the technology, and the size of the licensed community.

With regard to the request for a public comment period on the proposed budget, the Office of Management and Budget (OMB) establishes the Executive Branch budget process through circulars, memoranda, and guidance documents. The OMB Circular No. A-11 (Circular A-11) is updated annually and contains extensive instructions and schedules for agency submission of budget requests and justification materials to OMB.

No changes were made to the final rule as a result of these comments.

### **C. Work Papers**

*Comment:* Both the proposed rule and the work papers state that the operating power reactor annual fee increases in part due to increased support for new reactor design certification and early site permit reviews. However, neither document provides any more explanation as to the reason this work is increasing. Instead, one must consult the FY2018 Congressional Budget Justification to understand the purpose of this work (and even then, it remains at a fairly high level). Exelon recommends that at least

the same level of explanation in the Congressional Budget Justification also be included in the proposed fee rule.

The proposed rule and work papers list contract and Full Time Equivalent resources for general areas of research (e.g., “engineering research” and “risk analysis”), but provides no explanation of the exact research activities being conducted. Breaking down these general research areas into more specific topics (with associated costs) would give licensees a more fulsome understanding of the NRC activities that our fees are funding. Moreover, the NRC should make clear how these research activities advance the agency’s goals and objectives as set forth in its Strategic Plan.

Similarly, the proposed rule states that certain mission-direct non-labor contract costs increased in FY[ ]2018 because those activities were funded in FY[ ]2017 with prior year unobligated carryover. However, the proposed rule and work papers do not describe whether the total contract costs for FY 2018 are increasing compared to FY 2017 (irrespective of the funding source). Since the work papers reflect these contract costs as having zero resources allocated in FY 2017 (due to being funded by carryover), it is impossible to tell if more (or less) work is being done in these areas relative to last year. Exelon requests that, to the extent possible, in future final fee rules or work papers, the NRC identify which activities will be funded with carryover, and the amount of carryover allocated to each of those activities. This will enable licensees to compare total costs associated with NRC activities from year to year, regardless of how they were funded. (EXN)

*Response:* The commenter is requesting additional detail in the work papers in order to better understand the change in work being performed, improved clarity regarding the use of carryover funding, and additional information regarding research efforts. Different information is provided in different publications, including the work papers and the CBJ because these documents serve different purposes. The fee rule

and the supporting work papers, for instance, are published in order for the public and licensees to understand how fees are determined for a fee class and a fee category. Because consistent with the requirements of OBRA-90, fees are calculated based on the budget authority enacted for the current FY and not carryover, the fee rule and supporting work papers do not include information pertaining to carryover and including such information in these documents could cause confusion. The CBJ, alternatively, provides the agency explanation and justification for the resources being requested for the next FY to allow the agency to complete its mission, and it provides the reasoning for changes in the agency resource requests.

Further, with respect to providing additional information regarding exact research activities, there are some limitations regarding the level of detail that can be shared on specific contracts. The NRC is preparing additional guidance for project managers on types of information that can be shared with contracts specifically assigned to licensee efforts. The CBJ provides an overview of the research activities being conducted during FY 2018. These activities include accident tolerant fuel confirmatory research, digital systems, materials degradation, cable aging, and concrete degradation. Additional information on research efforts is also available from the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/research.html>. Including this information in the work papers for the proposed fee rule in future years is more likely to cause confusion regarding the scope of the fee rule. Additional information regarding the costs associated with research can be derived by comparing the work papers from the proposed fee rule to the final fee rule, which would allow the impact associated with the use of carryover to be identified between FYs. Work papers for the proposed and final fee rules for the last several years can be readily accessed at <https://www.nrc.gov/about-nrc/regulatory/licensing/fees.html>.

No changes were made to the final rule as a result of this comment.

*Comment:* The U.S. Department of Energy (DOE) has reviewed the proposed 10 CFR 170 and 171 fee schedule for fiscal year 2018. DOE finds that the basis for the total annual fee amount and the level of effort to support the general licenses for Uranium Mill Tailings Radiation Control Act [(UMTRCA)] sites is not presented in the proposed rule or the associated work papers. Additionally, the bases for allocation percentages for DOE and other uranium recovery licensees and the generic/other uranium recovery costs in the proposed rule and work papers are not presented. DOE requests that the U.S. Nuclear Regulatory Commission (NRC) clarify the rationale for the various fee components that are used to determine the total charge. This will help DOE evaluate whether the proposed NRC scope is consistent with anticipated DOE activities and establish the basis for DOE's estimate of annual uranium licensee fees in its budget request to Congress. (DOE)

*Response:* The NRC described the overall methodology for determining fees for uranium recovery facilities, including DOE, in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology. As the NRC explained in the proposed fee rule, the NRC recovers fees from DOE through both user fees charged under 10 CFR part 170 for specific UMTRCA oversight activities and annual fees charged under 10 CFR part 171 for generic and other costs related to UMTRCA and other uranium recovery activities. As shown in the work papers referenced in the proposed fee rule, the NRC calculated the total amount of budgeted resources for UMTRCA activities related to DOE sites in the FY 2018 CBJ by computing the cost of staff hours budgeted to conduct the work (in terms of full-time equivalent, or FTE) and the budgeted contract costs. The total amount of budgeted resources was reduced by the amount expected to be recovered by part 170 user fees for site-specific UMTRCA activities. The NRC estimated the amount of part 170 user fees by analyzing billing data and the actual contractual work charged to DOE for the previous four quarters. The

estimate, therefore, reflects any recent reductions in NRC oversight activities. The remainder of the UMTRCA budgeted amount related to DOE sites is charged to DOE for generic activities. In addition to those generic costs, DOE is charged for 10 percent of the overall generic costs attributable to the uranium recovery program. In other words, the DOE fee includes the costs of generic activities related to DOE sites and 10 percent of the overall generic costs attributable to the uranium recovery program. The remaining 90 percent of the overall generic costs is charged to other members of the uranium recovery class.

The proposed fee rule described the methodology used by the NRC staff to determine the annual fees for uranium recovery facilities. In addition, Tables IX through XII of the proposed rule show the application of the NRC's rebaselining methodology. The supporting work papers for the fee calculations provided detail on the FTE and contract resources for each product activity that were allocated to uranium recovery fee class. The work papers also provided information on all the values of the effort/benefit factors used in the uranium recovery matrix for FY 2018.

No changes were made to the final rule as a result of this comment.

#### **D. Small Business Standards**

*Comment:* [Because the NRC has a different definition for small business in comparison to the Small Business Administration (SBA), i]t makes it difficult to keep track of [the] same definition creating additional recordkeeping which is not necessary and does not add to creation of business. The definition defined by the SBA better reflects the intent of a "small business." The NRC [should] update its definition of small business for license purposes to [be the] same as SBA. (AE)

*Response:* One commenter expressed concern regarding the NRC's small business definition. Under the SBA's regulations, other federal agencies may, at their discretion, establish their own standards through notice and comment rulemaking. The



NRC updated its small business standards through notice and comment rulemaking, and those standards are separately codified at § 2.810. Comments with respect to the NRC's size standards, therefore, are outside the scope of this rulemaking. No changes were made to the final rule as a result of this comment.

*Comment:* To ensure consistency between Part 171 and Part 170 annual fees, NRC/[Office of the Chief Financial officer (OCFO)] should enact a process that addresses whether NRC has recognized a uranium water treatment licensee as a small entity for Part 171 fees, and if so, these licensees should be billed for the Part 170 annual fees in an amount that is commensurate with its small-entity designation. [Waste Remediation Technology (WRT)] is currently designated as a small entity under NRC regulations. It makes logical sense to designate small entities for fixed-fee amounts as they have limited employees, market share, and revenue. Coupled with the items noted above, the argument for changing the Part 170 fee category to a fixed-fee amount for entities such as WRT appears to make sense. (WRT)

*Response:* The NRC's small business standards only apply to 10 CFR part 171 fees. Fees under 10 CFR part 170 are set as either full cost recovery (billed by the hour at the professional hourly rate of \$275) or at a fixed fee depending on the fee class and fee category. As part of the Chief Financial Officers Act of 1990, the NRC reviews the actual hours expended performing licensing actions and develops estimates of the average professional staff hours needed to process licensing actions. The most recent review was performed in FY 2017 and the next review is scheduled for FY 2019. Each year, the NRC calculates new flat fees for specific licensing actions based on the estimated average hours and the new professional hourly rate. As such, flat fees recover the full costs for a particular licensing action on average. No changes were made to the final rule as a result of this comment.

## **E. Fee Exemptions**

*Comment:* WRT disagrees with NRC's proposal that would limit the timeframe in which a request for a fee exemption must be submitted; limiting it to within ninety (90) days of the date of the NRC's receipt of the work. An applicant or a licensee should not be restricted regarding when it can request an exemption. In the case of a full-cost fee category, if the limit was set at within 90 days of receipt of an application or the work, that would allow for no more than one (1) quarterly invoice cycle from NRC. That is not enough time into the work for the applicant to assess billings and whether it has a need to request an exemption. An applicant should not be restricted as to when in the timeline it can request an exemption. In the alternative, if NRC sees fit to establish a timeline, a licensee should be permitted 180 days to appeal thereby allowing for a thorough review of two quarterly invoices. Without such a timeframe, any licensee would have the incentive to dispute every single quarterly invoice and delay payment until a ruling is rendered by OCFO. WRT does not support abuse of the appeal process and believes this solution provides a disincentive to do so while maintaining fairness in the process. (WRT)

*Response:* The proposed 90-day timing requirement applies to only those exemption requests submitted under § 170.11(a)(1)—therefore, this 90-day timeframe is limited to only those who are seeking fee exemptions after submitting a request or report to the NRC. Because the basis for a fee exemption under § 170.11(a)(1) exists at the time the entity submits the request/report to the NRC, the new 90-day timeframe will help ensure administrative efficiency and timeliness. Relatedly, because the basis for a fee exemption under § 170.11(a)(1) exists at the time the entity submits the request/report to the NRC, providing additional time to review invoices would not result in any material change to whether an exemption should be granted. Notably, this new timing requirement does not apply to applicants that submit an application for the NRC to

review—those applicants remain free to seek a fee exemption at any time. No changes were made to the final rule as a result of this comment.

## **F. Uranium Recovery**

*Comment:* WRT is also aware of a planned pilot program to be initiated for several of NRC's classes of licensees to establish fixed fees for certain activities such as National Environmental Policy Act (NEPA) processes. WRT fully supports the use of fixed fee programs to assure licensees or would-be-licensees of the amount of human and financial resources that will be necessary for obtaining and maintaining an NRC license, especially in the case of where a company such as WRT generates no revenue from the uranium source material generated by its services and the [Community Water Systems] that are being forced to comply with an unfunded federal mandate. To the extent practicable, WRT would like to offer its input and/or participate in this program to determine what accommodations can be made for it in the future in the event license amendments are sought or the next license renewal is required. (WRT)

*Response:* The commenter appears to be referencing the flat fee pilot program that the NRC is currently in the process of developing for uranium recovery licensees. No licensees are actively participating in the flat fee pilot program at this time. At this point, the NRC has developed a new data reporting structure, trained staff on its use, and is actively collecting data on licensing costs in order to develop information that would allow the development of recommendations to the Commission regarding a potential flat fee program. The NRC expects to complete its data collection by the end of FY 2018. The staff expects to engage the public on whether to implement any flat fee program for uranium recovery licensees and applicants as part of the FY 2020 fee rulemaking. No changes were made to the final rule as a result of this comment.

*Comment:* If Wyoming becomes an Agreement State for the purposes of regulating uranium recovery by the beginning of FY 2019 (October 1, 2018) as NRC has

stated, the remaining three licensees are not—nor should they be placed—in a position to pay for the current NRC programmatic infrastructure associated with this category of licensee. NRC has assured stakeholders that they are considering various funding options to avoid this potential outcome; yet, industry has had no visibility of what could be a significant NRC policy and fee rule decision which will impact licensees' purses in less than 8 months. We urge you to engage the potentially remaining NRC licensees on this matter today. Further, it is unclear whether conducting a "flat fee" pilot for this category of licensees in FY 2020, as stated by NRC during the February 12, 2018 meeting, is the best use of limited NRC and industry resources. NRC should consult with the potentially remaining licensees and revisit this decision. (NEI-1)

*Response:* The NRC is aware of the challenge and is currently evaluating options to ensure that annual fees for the uranium recovery fee class remain fair and equitable if Wyoming becomes an Agreement State in FY 2019. The NRC plans to share the results of the evaluation with stakeholders once it is complete. With respect to the flat fee pilot program, the NRC has already developed and implemented the new data structure necessary to collect information that would be used to inform recommendations that the staff would provide to the Commission on the uranium recovery fee class. Only a minimal effort is required to complete the collection of data. The data collection process is expected to be completed by November 2018. Based on Wyoming's status and the collected data, the staff will evaluate how best to proceed and whether the flat fee pilot program continues to be a good use of resources or whether other changes should be pursued. No changes were made to the final rule as a result of this comment.

*Comment:* WRT asserts that the fee category for uranium drinking water treatment licensees should be changed from its current designation 2.A. (5), with the associated "full-cost" fee, to a category with a fixed annual fee. WRT suggests category

2.F. (Program Codes 11200 or 11300), All Other Source Material Licenses, or similar.

Charging a full-cost fee to either a company like WRT, or an individual community water system (CWS) is unsustainable for them to comply with the radionuclide-treatment mandate of the [Safe Drinking Water Act (SDWA)]. These types of costs, licensing or otherwise, likely are a primary reason why many CWSs do not treat their water or resort to alternative and, potentially less protective, approaches such as blending water.

The basic premise that uranium drinking water treatment should be in the same overall fee category (the 2.A. activities) with uranium recovery activities is misguided. All the licensed activities in this category are identified as licensees processing and/or recovering uranium source material for the inherent value of the source material, primarily for introduction to or refining in the commercial nuclear fuel cycle – that is where these activities derive their income. Many of these identified licensees also generate 11e. (2) Byproduct material and other kinds of regulated wastes, whereas WRT does not. The action phrases of these various identified licensees and/or activities listed in the 2.A. category of the Schedule speak directly to this point – refining uranium mill concentrates, uranium recovery operations such as milling, ISR, etc. Even the source-material byproduct activities of 2.A. (3) and (4) are activities that are subsequent to uranium recovery or processing operations. All such licensed activities are designed for the licensee to derive their income from the value of the uranium source material and are fuel-cycle or similar such facilities. Further, the level of risk associated with these licensed activities is very low, but those associated with WRT are even lower, and this low level of risk has been demonstrated through the Agreement State-licensed uranium water treatment systems data submitted in WRT's 2016 license renewal application.

Now, compare these activities above with the action phrase of drinking water treatment currently in category 2.A. (5) – “removal of source material contaminants.” This uranium source material has no inherent value; [Environmental Protection Agency

(EPA)] deemed it a contaminant under the SDWA that needed to be removed (not recovered) from drinking water sources based on concerns for public health and safety. The public and private CWSs that must deal with this issue derive no income from the uranium, but instead, it costs them to comply with an unfunded federal mandate. Thus, either WRT or a CWS choosing to perform its own uranium water treatment must bear these costs. As a result, WRT cannot sustain these full-cost fees on its own based on the business model used by the licensee, and CWSs cannot sustain such costs on their own, whether WRT passes such costs on to them for payment, or if such CWSs elect to perform such activities themselves and are forced to pay such costs as an NRC licensee.

It can similarly be argued that WRT is not a “producer” of source material, but rather a “service provider” consistent with NRC regulations and guidance. Indeed, WRT’s initial license application and the format of its current license shows that the identified licensed activities in this license are services provided to third-party entities such as CWSs and not as a part of a mining/milling operation conducted by the same licensee.

Therefore, WRT believes it would be a great source of relief to CWSs requiring uranium water treatment in accord with an unfunded federal mandate or entities such as WRT seeking to assist such CWSs in these endeavors if the fee category for WRT or other similar licensees was revised to a reasonable fixed fee amount.

In the case of WRT’s license, support for using the “other source material” designation of fee category 2.F. comes from the fact that nearly all of the Agreement State licenses (seven (7) – CA, GA, IL, NM, NC, TX, WI) that WRT holds for uranium and/or radium water treatment have both a fee category similar to NRC’s “other” category 2.F., and a reasonable fixed fee. Two other Agreement States, Colorado and New Jersey, have issued WRT service-provider licenses, both with reasonable fixed

annual fees, also similar to that of NRC fee category 2.F. Indeed, the use of the term “other” when describing certain source material licensees fits squarely within the way NRC regulations address WRT. For example, in addition to having the only NRC license of its kind through its performance-based, multi-site nature, NRC’s most recent rulemaking regarding small quantities of source material or the rule that address the amount of source material that may be possessed at any one time and during a calendar year in total (i.e., 10 CFR ... 40.22) reduced the amount of such possessed source material from fifteen (15) pounds at any one time and 150 pounds in a calendar year to much lower limits based on identified entities that were not considered in previous rulemaking and in an attempt to protect public health and safety. However, in this rulemaking, NRC specifically identified licensees such as WRT as excluded from such lower limits and allowed a general license to remain in effect under the previous 15/150 limits. Thus, by this exclusion, NRC specifically identified WRT as a licensee with extremely low risk and capable of handling such levels of source material. Further, the low level of risk and low requirements for license maintenance (e.g., site registration) are further supported by technical and environmental data in WRT’s license renewal application showing the previously projected health and safety risks are indeed extremely conservative and the actual risk is much lower. These unique factors further support treating WRT in a manner different from other 2.A licensees. (WRT)

*Response:* While WRT’s comment articulates a number of arguments to support changing the current fee category designation for uranium drinking water treatment licensees, the NRC considers this change to be outside the scope of this rulemaking because members of the public would not have had sufficient notice of the change requested by the commenter. Further, the NRC would need additional information not currently available to it in order to determine whether a flat fee would be appropriate and provide a method for setting the fee at an appropriate level in order to recover the NRC

costs. The staff will take this comment into consideration as it prepares the policy paper in support of the FY 2019 proposed fee rule. As a result, the NRC expects to seek public comment on this issue as part of the FY 2019 fee rulemaking, and that would provide sufficient notice to the public and an opportunity to provide comments on the fee category. For FY 2018, WRT requested and was granted a partial fee-waiver (ADAMS Accession No. ML18102A477) in relation to the NRC's review of its license renewal application. No changes were made to the final rule as a result of this comment.

#### **G. Variance between Proposed Fee Rule and Final Fee Rule Amounts**

*Comment:* [T]here appears to be greater variance between the annual fees in the proposed and final fee rules in recent years. These fluctuations make it more difficult to manage costs associated with NRC activities over the course of each year. Accordingly, we would welcome any improvements to developing the fee rule that lead to less variability between the proposed and final rules. (HW)

*Response:* One commenter expressed concern over the recent variance between the proposed rule and the final rule fee amounts. The agency strives to produce fees that accurately reflect the information available to it at the time that the proposed rule is issued for public comment. In the absence of an enacted appropriation, the agency uses the best information available, including the CBJ, information regarding historic appropriations, and a discussion of assumptions used in developing the budgetary resources used to calculate fees. Further, the NRC strives to provide conservative estimates in its proposed rule in order to provide licensees and applicants with information regarding the potential highest fees. Even with the NRC's effort to include conservative estimates in the proposed rule, changes associated with the enacted appropriations (including direction to use carryover, exclusion of activities from the fee-recoverable budget, and other changes) can cause the final fees to be different than the proposed rule. As a result of the FY 2018 enacted appropriations, the total



annual fees to be recovered for fuel facilities is \$27.7 million, which is a 2.5 percent decrease from FY 2017. However, average annual fees for each fee category in this fee class increased varied from 1.2 to 1.3 percent due to the loss of two licensees. No changes were made to the final rule as a result of this comment.

## **H. Invoicing**

*Comment:* As Westinghouse understands the new [Enterprise Project Identifier (EPID)/Cost Activity Code (CAC)] structure, it is provided to increase visibility on the NRC charges. The EPIDs identify individual projects and the CACs are generically identified and defined by the Office of the Chief Financial Officer (OCFO); based on the new structure, there is the possibility for one EPID to have multiple CACs. Based on the Westinghouse invoice, we are seeing mixed results in terms of transparency. In some areas, there are EPIDs with multiple CACs (for example, inspections are divided into preparation, travel, and performing the inspection), which we understand is the expectation to increase transparency on the invoices. However, in most areas, there is one CAC per EPID, so there is no further breakdown of the charges within the project and does not increase the transparency on the invoices. We would expect that the NRC offices would abide by the OCFO's new process and adopt more than one CAC per EPID. (WEC)

*Response:* This comment is outside the scope of this rulemaking because the purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, as an informational update, the NRC notes that the use and guidance for EPIDs continues to be improved across the agency, which should continue to provide additional transparency to licensees and applicants. No changes were made to the final rule as a result of this comment.

*Comment:* Recent improvements in the clarity and transparency of invoices issued to licensees are greatly appreciated. However, additional action is needed to address remaining areas of concern. One such area occurs in billing of inspection costs. Estimates of direct inspection hours are available for each inspection (totaling approximately 1,863 hours/site under the baseline inspection program), but invoices currently do not distinguish between direct inspection hours and inspection support activities. The cost for these support activities, which include documentation, preparation, travel and significance determination efforts, are in many cases double or triple the cost of direct inspection hours (Average 3,488 hours/site). The absence of estimates for support activities necessary for each inspection and a clear identification of support hours presents a challenge for accountability and tracking of inspection costs. Invoices should identify costs associated with the separate and distinct aspects of inspections (e.g., direct inspection hours, preparation, documentation, travel, significance determination process). (NEI-2)

*Response:* This comment is outside the scope of this rulemaking because the purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, as an informational update, the NRC remains dedicated to improving transparency in its fee billing. On January 30, 2015, the staff submitted SECY-15-0015, "Project Aim 2020 Report and Recommendations" (ADAMS Accession No. ML15012A594), to the Commission. That paper included, in part, recommendations associated with simplifying how the NRC calculates its fees, improving transparency in the fee billing process, and improving the timeliness of the NRC's communications about fee changes. The Commission approved

these recommendations and since that time, the staff has been actively implementing them.

The NRC is implementing a number of initiatives in response to the Commission's direction to provide better fee billing information to licensees, including information related to the costs of inspections. For example:

- a) As part of the fee transformation initiative, the agency posted resource estimate summaries, which were based on historical inspection data, at <https://www.nrc.gov/docs/ML1727/ML17271A262.pdf> (ADAMS Accession No. ML17271A262). These summaries include information related to direct inspection costs. The table also includes a line item for documentation, preparation, travel to and from the site, plant status, etc. Actual effort may vary based on regional and site needs.
- b) As noted on the NRC's Web site at <https://www.nrc.gov/about-nrc/regulatory/licensing/sample-invoice.pdf>, the bill to the licensee includes the names of the inspectors for the invoice period, the hours charged, the hourly rate, and total amount billed to the licensee in the invoice period. The bill also includes the cost activity code that the inspectors charged to. The cost activity code distinguishes the inspection-related work from the inspection support-related work.
- c) The agency increased standardization of the financial charging system used by inspectors and all NRC personnel. The new system allows the grouping of costs for a single inspection or other project so that costs are no longer commingled within the invoice for multiple projects, and consolidates all the charges under a given project for the invoice period.
- d) The Division of Inspection and Regional Support within the NRC's Office of Nuclear Reactor Regulation is also working on a new document that will be made publicly

available to explain the highlights and overall structure of the Reactor Oversight Process budget model.

The NRC also notes that each inspection procedure includes the direct inspection resource estimates, in hours, required to complete the inspection. Because inspections also include necessary indirect inspection resources such as preparation, documentation and travel, and can vary in complexity depending on the issue being evaluated, the associated hours may deviate from the estimates in the inspection procedure in some cases. The agency looks for trends and biennially evaluates every baseline inspection procedure to determine if resource estimates need to be reallocated.

In summary, the agency provides anticipated hours for inspections through the inspection procedure resource estimates and has taken action to provide better detail and transparency in the invoice. No changes were made to the final rule as a result of this comment.

## **I. Low-Level Waste Surcharge**

*Comment:* [W]e believe the staff should validate the “Low Level Waste Surcharge” (LLW) figures in table IV of the proposed rule (page 3411 of the *Federal Register* Notice). Specifically, it seems illogical that the fuel facilities would be allocated the highest LLW surcharge percentage considering the number of facilities and plants nationwide in some stage of decommissioning. Since NRC fees are based in part on the LLW surcharge, NRC should work with the Department of Energy to ensure the accuracy, completeness and timeliness of data entered into DOE’s Manifest Information Management System (MIMS). MIMS contains data on four generator classes, and it is unclear whether fuel cycle facilities are aligned with the class generically identified as “industrial.” (NEI-1)

*Response:* The DOE was required by law (42 U.S.C. 2021g (a)) to establish a computerized database to monitor low-level radioactive wastes. The DOE created and

is responsible for the MIMS database that was created to monitor the management of commercial LLW in the United States. The LLW surcharge percentages included in Table IV in the proposed FY 2018 fee rule for Operating Power Reactors, Fuel Facilities, and Materials Users reflect the 5-year average of the data available in MIMS for the relevant licensees. Fuel facilities are aligned with the MIMS Class identified as “Industry” and the Fuel Facilities percentage is based on a fraction of the 5-year average for the Industry Class.

At the time the proposed FY 2018 fee rule was issued, the most recent data available from the MIMS database was from 2016. The final FY 2018 fee rule includes updated LLW surcharge percentages which account for the 2017 MIMS data that was recently populated into the database by DOE. The 2017 data included a significant increase to the volume reported under the “Utility” Class, which is used to determine the percentage for Power Reactors. The increase to the volume reported under the Utility Class in 2017 shifted the percentages for Fuel Facilities and Power Reactors as seen in Table IV, “Allocation of Fee-Relief and LLW Surcharge FY 2018.” As a result, compared to the proposed FY 2018 fee rule, the percentage of the LLW surcharge for Operating Power Reactors increased from 41.0 percent to 75 percent, Fuel Facilities decreased from 46 percent to 20 percent, and Material Users decreased from 13 percent to 5 percent. Please refer to Table IV and the accompanying discussion for additional details.

## **J. Efficiency**

*Comment:* The NRC needs to continue to pursue improvements in efficient operations. Over several years, the NRC has pursued efficiency improvements through Project AIM and other initiatives that has resulted in small declines of support functions included in the professional hourly rate. These improvements have not translated into the professional hourly rate or annual fees. (NEI-1, NEI-2, WEC)

*Response:* This comment pertains to agency efficiency and is therefore outside the scope of this rulemaking because the purpose of the NRC's annual fee rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations. However, as an informational update, the NRC notes that it has completed several initiatives to improve the efficiency of the agency, some of which include: reducing the size of the agency through early buy-outs and retirements, as well as reducing corporate support. The NRC continues to look for additional methods to improve the efficiency and flexibility. No changes were made to the final rule as a result of these comments.

*Comment:* In the Proposed Fee Rule, NRC proposes eleven administrative changes. The first change is to "revise the methodology of charging licensees for overhead time for project managers (PMs) and resident inspectors (RIs)." The revised methodology proposes removing the 6% of direct billable costs added as an overhead cost to all licensees' invoices, and replace with the "actual hours for activities that support and directly benefit the assigned licensee or site."

While Westinghouse applauds NRC for removing the unnecessary allocation, it is unclear how the replacement system (i.e., "docket-related fee-billable cost activity codes") will drive efficient work from project managers. We would expect that, to the maximum extent practical, activities that support and directly benefit Westinghouse would be assigned to a specific Enterprise Project Identifier (EPID), rather than a general "project management" EPID/Cost Activity Code (CAC). Based on Westinghouse's most recently received invoices, the project manager was responsible for between 24% and 99% of the invoiced charges to a given docket, so it seems unnecessary to have a separate "project management" EPID/CAC. Additionally,

Westinghouse requests publically available guidance to the staff on what is “fee-billable.” (WEC)

*Response:* This comment appears to address four distinct issues: (1) removal of the 6-percent charge; (2) replacement methodology for the 6-percent charge; (3) use of the project management CAC/EPID; and (4) publicly available guidance on fee-billable activities. While the first two items are within the scope of the rule, items 3 and 4 are outside the scope of this rulemaking because the purpose of the NRC’s annual fee recovery rulemaking is to update the NRC’s fee schedules to recover approximately 90 percent of the NRC’s budget authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC’s fee regulations. However, the NRC will provide an informational update on items 3 and 4.

First, the commenter, like other commenters, appears to be generally supportive of the removal of the 6-percent overhead charge for the part 170 bills.

Second, the commenter expresses concern that the replacement system described in the proposed fee rule (i.e., using new docket-related fee-billable CACs) will not result in efficient work from PMs. For PMs, the NRC has decided that no new CACs will be implemented as part of the replacement system; only RIs will be using the new CACs established to replace the 6-percent charge. The replacement system is discussed in more detail above under “FY 2018—Administrative Changes, 1. Revise the Methodology of charging licensees for overhead time for project managers (PMs) and resident inspectors (RIs).”

Third, the commenter requests that activities that support and directly benefit Westinghouse be assigned to a specific EPID and not assigned to a general project management CAC/EPID. As an informational update, the NRC notes that PMs typically use the general project management CAC/EPID combination (e.g., 000958/L-2017-PMP-0023) to capture direct fee-billable services that are not associated with a specific

request or activity. Such activities include, for example, time that the PM for a facility spends in discussions with the licensee regarding licensee operations, licensee plans for future license amendment and license renewal submittals, as well as other issues. The use of a more specific EPID would refer to a specific request or activity, and the work recorded under that CAC/EPID combination (e.g., 000958/L-2012-TOP-002) would indicate substantive work on that specific request or activity. When looking at all of the CAC/EPID combinations, time spent on fee-billable general project management activities account for significantly less of the total part 170 fees charged to a particular docket. The NRC, however, appreciates the confusion that could be caused by the general project management CAC description and will consider whether improvements can be made with respect to the CAC.

Fourth, the commenter requests publicly available fee-billable guidance for the staff. As an informational update, the NRC notes that the use and guidance for EPIDs continues to be improved across the agency, which should continue to provide additional transparency to licensees and applicants. At this time, the NRC does not intend to make additional guidance publically available. In 10 CFR part 170, the regulations identify the specific types of the activities that will incur fees for services.

#### **K. Fuel Facilities**

*Comment:* Several commenters raised concerns regarding the ratio of part 170 fees for service to the part 171 annual fees for the Fuel Facilities fee class. They raised concerns regarding the differences in these ratios between different fee classes including the higher ratio of part 170 billing in the Operating Power Reactor fee class. They questioned the reason for these higher non-direct services in the Fuel Facilities fee class and whether the activities are reasonable and appropriate, and requested that the NRC provide additional information regarding these non-direct services. (HW, UUSA)



*Response:* All NRC fee classes have slightly different ratios of 10 CFR part 170 fees versus 10 CFR part 171 fees because the amount of fees collected by the agency under 10 CFR part 170 are directly impacted by licensee decisions. For the power reactors, for instance, the NRC has been working on new reactor application and design certification reviews, and Fukushima-related activities, license renewal activities, and other complex license amendments such as extended power-up rates have been completed or are winding down. These activities contribute to the lower ratio of 10 CFR part 170 fees versus 10 CFR part 171 fees for the power reactor fee class. By contrast, licensees in the fuel facilities fee class have indicated that they have no desire to make changes to their licenses, which reduces the amount of fees that can be collected under 10 CFR part 170. Further, in a fee class with a small number of licensees (like fuel facilities), these licensing decisions can have a much larger impact on the ratio than with large fee classes (like the power reactors).

With regard to the request for additional information, in public meetings conducted on February 12, 2018, and March 27, 2018, the NRC staff provided an overview of the fuel facilities budget and an illustrative breakdown of NRC costs recovered by 10 CFR part 170 services fees and 10 CFR part 171 annual fees. Slides from these public meetings are available in ADAMS under Accession Nos. ML18040A317 and ML18082A599, respectively. Also you can view them at <https://adams.nrc.gov/wba/>.

No changes were made to the final rule as a result of these comments.

*Comment:* Several commenters raised concerns regarding the prioritization of resources in the fuel facilities fee class to the most safety significant issues. They requested that the NRC improve the timeliness of license amendments and renewals, transition routine inspections to the resident inspectors, where applicable, reduce

inspection frequencies to reflect historical inspection results, and eliminate unnecessary rulemaking initiatives, and maintenance of guidance documents. (NEI-1, NEI-2)

*Response:* The NRC staff agrees that regulatory initiatives that are of the most benefit in terms of safety or safeguards should be given higher priority. The agency carefully considers the benefits of regulatory initiatives it pursues. For example, the rulemaking process (including associated guidance documents) is a very deliberate and open public process that invites input and feedback from a broad range of stakeholders. We do appreciate that stakeholders may have different views regarding the need for, or benefit to be derived from, various regulatory initiatives. The NRC carefully considers all stakeholder input in its determination of whether or not to recommend proceeding with a given initiative. For rulemakings, this determination is documented in a regulatory analysis which informs the Commission's decision on whether or not to ultimately proceed. In addition, public meetings with licensees on the cumulative effects of regulation have been an effective forum for dialogue on regulatory initiatives being considered and taken by the NRC. No changes were made to the final rule as a result of these comments.

*Comment:* Several commenters provided views regarding the effort factors matrix, including requests to maintain the current matrix, requests to change the existing matrix's calculation methodology, and proposed changes to the classification of a licensee's specific effort factors. (HW, NFS, UUSA)

*Response:* In response to industry concerns about the fairness and equity of annual fees charged to fuel facilities, the NRC analyzed its past practice of using an effort factors matrix to calculate annual fees for the fuel facilities fee class to determine if revisions to the current method may be warranted. The NRC held two public meetings to discuss possible alternative approaches to the method of calculating annual fees for the fuel facility fee class including changes to the effort factors matrix. As part of that

process, the NRC received numerous comments on the current and alternative methods for determining annual fees. The comments were mixed as to whether NRC should continue working on changes to the methodology for calculating annual fees. Some stakeholders indicated that NRC should continue with this effort, while others stated that NRC should consider alternatives, such as a reduction of budgeted resources, before changing the current fuel facility effort factors matrix.

During the meetings, the staff indicated that it did not intend to make any changes to the method of calculating annual fees in the FY 2018 fee rule since it is in the process of engaging stakeholders, and any recommendations related to the effort factors matrix would be addressed as part of recommendations for the FY 2019 proposed fee rule. The NRC staff will consider these comments, and any other comments on the effort factors matrix, as it prepares the proposed fee rule for FY 2019. No changes were made to the final rule as a result of these comments.

#### **L. Comments Regarding the Size of the Fuel Facilities Budget**

*Comment:* Several commenters expressed concern that the fuel facility business line's budget is too large given the activities performed and the number of licensees. One commenter expressed concern that the level of resources assigned to the fuel facilities fee class was too large in light of the risk profile for the facilities. (HW, NEI-1, NFS, UUSA, WEC)

*Response:* The fuel facilities business line is responsible for ensuring the safety and security of fuel cycle and greater than critical mass facilities. The business line leads the licensing and oversight of these facilities, as well as domestic material control and accounting and international safeguards implementation activities for the NRC. The business line also supports rulemaking and environmental review activities for fuel facilities.

The NRC has taken steps to right-size the fuel facilities budget to ensure that it reflects the reduced workload in the business line. A peak workload was experienced in FY 2012. The FY 2018 fuel facilities budget of \$35.1 million is a third less than the FY 2012 fuel facilities budget of \$54.4 million. Further, the 114 FTE in the FY 2018 fuel facilities budget is over a third less than the 184 FTE in the FY 2012 fuel facilities budget.

The NRC's FY 2018 fuel facilities budget has increased slightly from the FY 2017 fuel facilities budget. This small increase resulted from (a) the transfer of 1 FTE of enforcement resources from the nuclear materials users fee class to the fuel facilities fee class to reflect the fee class benefiting from the work being performed by this FTE, and (b) an increase in the NRC fully costed FTE rate. However, the "Congressional Budget Justification, Fiscal Year 2019," (NUREG-1100, Volume 34) includes a decrease of 6 FTE for the fuel facilities business line budget relative to the FY 2018 CBJ, which continues the overall downward trend in the fuel facilities budget.

In public meetings conducted on February 12, 2018, and March 27, 2018, the NRC provided an overview of the fuel facilities budget and an illustrative breakdown of NRC costs recovered by 10 CFR part 170 services fees and 10 CFR part 171 annual fees. Slides from these public meetings are available in ADAMS under Accession Nos. ML18040A317 and ML18082A599, respectively.

Regarding the assertion that the NRC should reduce its budget commensurate with the reduction in the number of fuel facilities that pay fees, the NRC agrees, but that reduction is not linearly proportional as there is a cost for the infrastructure that must be maintained independent of the number of operational fuel facilities. These infrastructure costs include indirect services and the business line portion of corporate support. Indirect services include rulemaking, maintaining guidance for licensees, maintaining procedures for NRC staff, training, and travel. Corporate support includes, for example,

the cost for information management, information technology, security, facilities management, rent, utilities, financial management, acquisitions, human resources, and policy support.

The NRC continues to actively evaluate resource requirements, both in terms of overall budget numbers and FTEs, to address changes that occur between budget formulation and execution. The NRC will continue to assess resource requirements and evaluate programmatic efficiencies that could result in additional resource reductions, and make changes as appropriate during budget execution.

One commenter expressed concern regarding the total number of FTEs assigned to a business line. The commenter stated that the resources supporting fuel facilities were 82 FTEs in FY 2017, and the resources increased to 114 FTEs in FY 2018. The numbers identified by the commenter refer to different categories of personnel and are not directly comparable. In FY 2017, 81.7 FTEs were identified as mission-direct resources. In FY 2018, the mission-direct resources increased to 82.7 FTEs. This is the 1 FTE increase discussed previously. The 114 FTEs identified by the commenter refers to the FTE included in the FY 2018 CBJ, which includes both mission-direct and mission-indirect resources.

No changes were made to the final rule as a result of these comments.

#### **M. Decline in Part 170 Fee Collections**

*Comment:* There are eight operating commercial nuclear power plants that have announced premature closings between now and 2025. As power reactors announce premature shutdowns and 10 CFR part 170 user fee collections decrease, the remaining operating power reactors will bear the burden of increased annual fees unless the fee-recoverable portion of the NRC's budget authority decreases. This disparity between lower 10 CFR part 170 user fees and rising 10 CFR part 171 annual fees cannot be maintained and must be promptly corrected. (NEI-2, EXN)

*Response:* The NRC is aware of and accounts for the decreasing number of nuclear power reactor licensees. For instance, as part of our budgeting process, the NRC tracks licensee plans to cease operations and adjusts its budget requests to reflect the anticipated work and ensure that agency will continue to meet its statutory requirements.

The NRC, however, must comply with OBRA-90, which requires the NRC to collect approximately 90 percent of its annual budget authority (less certain excluded items) through both user fees and annual fees. The NRC can assess these annual fees only to licensees or certificate holders, and the annual fee schedule must be fair and must equitably allocate annual fees among the NRC's many licensees. To ensure compliance with OBRA-90, the NRC makes continual organizational improvements to budget only the resources needed to support its regulatory activities.

The amount of user fees collected under 10 CFR part 170 depends on a number of different factors including the professional hourly rate, licensee and applicant decisions to pursue licensing actions, and the amount of hours necessary to resolve any licensing actions. Due to OBRA-90 requirements, examining changes in the 10 CFR part 170 fees and the 10 CFR part 171 fees separately may not account for the overall decreases in the fee class budget or the realized efficiencies. Over the last several years, the fee class budget for the Operating Power Reactors fee class has decreased from \$762.1 million in FY 2015 to \$669.9 million in the FY 2018 final rule. In the "Congressional Budget Justification: Fiscal Year 2019" (NUREG-1100, Volume 34), the Nuclear Reactor Safety program shows continuing declines in requested budgetary resources for FY 2019.

Despite the decreasing number of operating nuclear power plants, the number of licensing actions completed per year has slightly increased over the past two fiscal years and demonstrates the improving efficiencies realized from the Project Aim initiatives

including reductions in FTEs and improved management focus on process improvements. The NRC continues to pursue additional improvements to efficiency and ensuring that its budgetary request accurately reflects the anticipated work.

No changes were made to the final rule as a result of these comments.

*Comment:* Several commenters expressed concern regarding the declining fraction of fees recovered under 10 CFR part 170 (Service Fees) relative to 10 CFR part 171 (Annual Fees), as well as the NRC's overall budget for the Fuel Facilities Fee Class. The commenters noted that these fees were being borne by a decreasing number of facilities with a decreasing number of licensing actions. They also asked for more information on what specific activities contribute to the non-direct portion of the budget that is recovered in the annual fees charged to licensees. (NEI-1, UUSA, WEC)

*Response:* The NRC is aware of the current economic state of the fuel cycle industry and remains mindful of the impact of its budget on the fees for licensees. The Fuel Facilities Fee Class supports the activities of the fuel facilities business line, including both direct-billable licensing actions and those general activities that indirectly support the agency's mission in these areas. The overall budget for the fuel facilities business line has decreased significantly in recent years. For example, the number of budgeted staff positions in the fuel facilities business line has decreased from 184 FTE in FY 2012 to 114 FTE in FY 2018, or 38 percent. The NRC continues to adjust its proposed budget in line with anticipated work load for the business line.

Since FY 2012, services billed directly to individual fuel facility licensees under 10 CFR part 170 have decreased. The reasons for this include: fewer applications for new licenses, license renewals, and license amendments; fewer inspections; and less construction inspection activity. The decrease in 10 CFR part 170 collections in recent years has meant that the amount to be recovered by annual fees has not decreased commensurate with the overall decrease in the budget for the fuel facilities business line.

Further, the decline in the number of operating fuel facilities (from ten in FY 2012 to seven in FY 2018) has led to an increase in the annual fee burden for the remaining fuel facilities, even though the total budgeted resources for this fee class have dropped during that time period.

The business line must maintain certain minimum requirements in order to meet the NRC's regulatory and statutory oversight role. This includes maintaining expertise in a number of technical areas, including: integrated safety analysis, radiation protection, criticality safety, chemical safety, fire safety, emergency management, environmental protection, decommissioning, management measures, material control and accounting, physical protection, and information security. Budgeted resources in technical areas are recovered through annual fees as well as user fees.

In a public meeting on March 27, 2018, the NRC staff discussed how the annual fees support other activities that are necessary for the Fuel Facilities Fee Class as a whole. The presentations from the meeting address these areas and are available in ADAMS under Accession No. ML18082A604.

As discussed in the meeting, these activities include, among others, fuel facilities' proportion of corporate support functions for the NRC (for example, infrastructure, financial and information services, and other administrative functions), supervisory and management functions, and non-billable licensing and oversight activities (for example, program development and program maintenance). The cost of these areas together constitute about three-quarters of what is recovered through 10 CFR part 171 annual fees, and thus about half of the total business line budget. The remainder of the annual fee portion includes small amounts to support rulemaking and guidance development, staff training and related travel, and event response. Further detail is presented in the slides on stakeholder feedback from the March 27, 2018 meeting (available in ADAMS



under Accession No. ML18082A604). No changes were made to this final rule as a result of these comments.

#### **N. Comments Generally Supporting Actions of the Agency**

Several commenters expressed comments generally in favor of actions that the agency is taking with respect to fees, billing, and other aspects of the fee rule process. Comments generally in favor of the agency's actions included comments supporting the public meetings on the proposed fee rule and invoicing, the move to new formats for invoices, plans to support e-billing, and the removal of the 6-percent overhead charge for the 10 CFR part 170 bills. No new or different information was developed as a result of these comments, and thus, no changes to the rule were made because of these comments.

#### **O. Comments on Matters Not Related to this Rulemaking**

Several commenters raised issues outside the scope of the FY 2018 fee rule. Commenters raised concerns with the agency's budgeting process and requesting public meetings on the agency's proposed budget. Other commenters were concerned with the agency's overall size. A few commenters raised concerns regarding the fees that are assessed as part of §§ 11.15(e) and 25.17(f); however, those portions of the NRC's regulations are not within the scope of the FY 2018 fee rule. Another commenter raised concerns regarding copyright and tort reform for small businesses, and a commenter requested a ban on offsite drilling.

These matters are outside the scope of this rulemaking. The primary purpose of the NRC's annual fee recovery final rule is to update the NRC's fee schedules to recover approximately 90 percent of the NRC's budgeted authority for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with OBRA-90.

The NRC takes very seriously the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Recognizing the importance of continuous reexamination and improvement of the way the agency does business, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at improving the efficiency of NRC operations and enhancing the agency's approach to regulating. Though comments addressing these issues may not be within the scope of this final rule, the NRC will consider this input in its future program operations.

## **V. Regulatory Flexibility Certification**

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>14</sup> the NRC has prepared a regulatory flexibility analysis relating to this rule. The regulatory flexibility analysis is available as indicated in Section XIV, Availability of Documents, of this document.

## **VI. Regulatory Analysis**

Under OBRA-90, the NRC is required to recover approximately 90 percent of its budget authority in FY 2018. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA-90.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this rulemaking.

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<sup>14</sup> 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

## **VII. Backfitting and Issue Finality**

The NRC has determined that the backfit rule, 10 CFR 50.109 (and similar provisions in the NRC's regulations for other licensee fee classes), does not apply to this final rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

## **VIII. Plain Writing**

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885).

## **IX. National Environmental Policy Act**

The NRC has determined that this rule amends the NRC's administrative requirements in 10 CFR part 170 and 10 CFR part 171. Therefore, this action is categorically excluded from needing environmental review as described in 10 CFR 51.22(c)(1). Consequently, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

## **X. Paperwork Reduction Act**

This rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

## **Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

## **XI. Congressional Review Act**

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801-808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

## **XII. Voluntary Consensus Standards**

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC amends the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2018, as required by OBRA-90. This action does not constitute the establishment of a standard that contains generally applicable requirements.

### **XIII. Availability of Guidance**

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the “Small Entity Compliance Guide” for the FY 2017 proposed fee rule. The NRC plans to continue to use this compliance guide for FY 2018 and has relabeled the compliance guide to reflect the current fiscal year. The FY 2018 version of the compliance guide is available as indicated in Section XIV, Availability of Documents, of this document. The next compliance guide will be developed when the NRC completes the next small entity biennial review in FY 2019.

### **XIV. Availability of Documents**

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

<b>DOCUMENT</b>	<b>ADAMS ACCESSION NO./WEB LINK</b>
SECY-16-0009, “Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities,” February 9, 2016	ML16104A158
SECY-16-0097, “Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,” August 22, 2016	ML16194A365
SECY-17-0026, “Policy Considerations and Recommendations for Remediation of Non-Military, Unlicensed Historic Radium Sites in Non-Agreement States” February 22, 2017	ML17130A783
Staff Requirements Memorandum for SECY-17-0026, September 7, 2017	ML17250A841
FY 2018 Final Rule Work Papers	ML18135A044
FY 2018 Regulatory Flexibility Analysis	ML17319A288

FY 2018 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML17319A291
U.S. Government Accountability Office (GAO) report titled "Nuclear Regulatory Commission: Regulatory Fee-Setting Calculations Need Greater Transparency" (GAO-17-232), February 2, 2017	<a href="http://www.gao.gov/products/GAO-17-232">http://www.gao.gov/products/GAO-17-232</a>
Regulatory Issue Summary 2015-19, "Decommissioning Timeliness Rule Implementation and Associated Regulatory Relief," September 27, 2016	ML16008A242
NUREG-1100, Volume 33, "Congressional Budget Justification: Fiscal Year 2018" (May 2017)	ML17137A246
NUREG-1100, Volume 34, "Congressional Budget Justification: Fiscal Year 2019" (February 2018)	ML18023B460
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171	<a href="http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf">http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf</a>
SECY-05-0164, "Annual Fee Calculation Method," dated September 15, 2005	ML052580332
OMB's Circular A-25, "User Charges"	<a href="https://www.whitehouse.gov/omb/circulars_default">https://www.whitehouse.gov/omb/circulars_default</a>
Fees Transformation Accomplishments	<a href="https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html">https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html</a>
FY 2018 Proposed Fee Rule	ML17313A419
FY 2018 Proposed Rule Work Papers	ML17348A377

## List of Subjects

### 10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

## **10 CFR Part 171**

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171:

### **PART 170 -- FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED**

1. The authority citation for part 170 continues to read as follows:

**AUTHORITY:** Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

2. In § 170.3, add the definitions for *Agency support (corporate support and the IG)*, *Mission-direct program salaries and benefits*, and *Mission-indirect program support* in alphabetical order and remove the definition of *Overhead and general and administrative costs* to read as follows:

#### **§ 170.3 Definitions.**

\* \* \* \*

*Agency support (corporate support and the IG)* means resources located in executive, administrative, and other support offices such as the Office of the Commission, the Office of the Secretary, the Office of the Executive Director for Operations, the Offices of Congressional and Public Affairs, the Office of the Inspector General, the Office of Administration, the Office of the Chief Financial Officer, the Office of the Chief Information Officer, the Office of the Chief Human Capital Officer and the Office of Small Business and Civil Rights. These resources administer the corporate or shared efforts that more broadly support the activities of the agency. These resources also include information technology services, human capital services, financial management, and administrative support.

\* \* \* \*

*Mission-direct program salaries and benefits* means resources that are allocated to perform core work activities committed to fulfilling the agency's mission of protecting the public health and safety, promoting the common defense and security, and protecting the environment. These resources include the core work activities assigned within the major program business lines (Operating Reactors, New Reactors, Fuel Facilities, Nuclear Materials Users, Decommissioning and Low-Level Waste, and Spent Fuel Storage and Transportation).

*Mission-indirect program support* means resources that support the core mission-direct activities. These resources include supervisory and nonsupervisory support and mission travel and training. Supervisory and nonsupervisory support and mission travel and training resources assigned under direct business line structure are considered mission-indirect due to their supporting role of the core mission activities.



\* \* \* \* \*

3. In § 170.11, add paragraph (c) to read as follows:

**§ 170.11 Exemptions.**

\* \* \* \* \*

(c) For purposes of paragraph (a)(1) of this section, a request for a fee exemption must be submitted to the CFO within 90 days of the date of the NRC's receipt of the work.

4. Revise § 170.20 to read as follows:

**§ 170.20 Average cost per professional staff-hour.**

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of \$275 per hour.

5. In § 170.21, in the table, revise fee category K. to read as follows:

**§ 170.21 Schedule of fees for production or utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.**

\* \* \* \* \*

**SCHEDULE OF FACILITY FEES**

**[See footnotes at end of table]**

Facility categories and type of fees							Fees <sup>1,2</sup>
*	*	*	*	*	*	*	

<p>K. Import and export licenses:<sup>6</sup></p> <p>Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.</p> <p>1. Application for import or export of production or utilization facilities<sup>4</sup> (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a).</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.</p> <p>Minor amendment to license</p>	N/A

<sup>1</sup> Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

<sup>2</sup> Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application

up to [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] will be determined at the professional rates in effect when the service was provided.

<sup>4</sup> Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

<sup>6</sup> Because the Consolidated Appropriations Act, 2018, excludes international activities from the fee-recoverable budget in fiscal year 2018, import and export licensing actions will not be charged fees.

6. In § 170.31, revise the table to read as follows:

**§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.**

\* \* \* \* \*

**SCHEDULE OF MATERIALS FEES**

**[See footnotes at end of table]**

Category of materials licenses and type of fees <sup>1</sup>	Fee <sup>2, 3</sup>
1. Special nuclear material <sup>11</sup> :	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) <sup>6</sup> [Program Code(s): 21213]	Full Cost
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel <sup>6</sup> [Program Code(s): 21210]	Full Cost
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities. <sup>6</sup>	
(a) Facilities with limited operations <sup>6</sup> [Program Code(s): 21240, 21310, 21320]	Full Cost
(b) Gas centrifuge enrichment demonstration facilities. <sup>6</sup> [Program Code(s): 21205]	Full Cost
(c) Others, including hot cell facilities. <sup>6</sup> [Program Code(s): 21130, 21133]	Full Cost
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) <sup>6</sup> [Program Code(s): 23200]	Full Cost
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed	

sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. <sup>4</sup> Application [Program Code(s): 22140]	\$1,300
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. <sup>4</sup> Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	\$2,600
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities. <sup>4,6</sup> [ [Program Code(s): 22155]	Full Cost
2. Source material <sup>11</sup> : A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. <sup>6</sup> [Program Code(s): 11400]	Full Cost
(2) Licenses for possession and use of source material in recovery operations such as milling, <i>in-situ</i> recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. <sup>6</sup> (a) Conventional and Heap Leach facilities <sup>6</sup> [Program Code(s): 11100]	Full Cost
(b) Basic <i>In Situ</i> Recovery facilities <sup>6</sup> [Program Code(s): 11500]	Full Cost
(c) Expanded <i>In Situ</i> Recovery facilities <sup>6</sup> [Program Code(s): 11510]	Full Cost
(d) <i>In Situ</i> Recovery Resin facilities <sup>6</sup> [Program Code(s): 11550]	Full Cost
(e) Resin Toll Milling facilities <sup>6</sup> [Program Code(s): 11555]	Full Cost
(f) Other facilities <sup>6</sup> [Program Code(s): 11700]	Full Cost
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy	

Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) <sup>6</sup> [Program Code(s): 11600, 12000]	Full Cost
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) <sup>6</sup> [Program Code(s): 12010]	Full Cost
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water <sup>6</sup> [Program Code(s): 11820]	Full Cost
B. Licenses which authorize the possession, use, and/or installation of source material for shielding. <sup>7, 8</sup> Application [Program Code(s): 11210]	\$1,200
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. Application [Program Code(s): 11240]	\$2,200
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. Application [Program Code(s): 11230, 11231]	\$2,700
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. Application [Program Code(s): 11710]	\$2,600
F. All other source material licenses. Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	\$2,600
3. Byproduct material <sup>11</sup> : A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03211, 03212, 03213]	\$12,900
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04010, 04012, 04014]	\$17,100
(2). Licenses of broad scope for the possession and use of	\$21,400

byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04011, 04013, 04015]	
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. Application [Program Code(s): 03214, 03215, 22135, 22162]	\$3,500
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. Application [Program Code(s): 04110, 04112, 04114, 04116]	\$4,700
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04111, 04113, 04115, 04117]	\$5,900
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. Application [Program Code(s): 02500, 02511, 02513]	\$5,100
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. Application [Program Code(s): 04210, 04212, 04214]	\$6,800
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct	

material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. Application [Program Code(s): 04211, 04213, 04215]	\$8,500
D. [Reserved]	N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). Application [Program Code(s): 03510, 03520]	\$3,200
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03511]	\$6,400
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes. Application [Program Code(s): 03521]	\$61,400
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03254, 03255, 03257]	\$6,600
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	\$9,800
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require	\$2,000

sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03240, 03241, 03243]	
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. Application [Program Code(s): 03242, 03244]	\$1,100
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1-5. Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	\$5,400
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6-20. Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	\$7,200
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	\$9,000
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. Application [Program Code(s): 03620]	\$7,000
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C. Application [Program Code(s): 03219, 03225, 03226]	\$7,200



O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1-5. Application [Program Code(s): 03310, 03320]	\$3,100
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6-20. Application [Program Code(s): 04310, 04312]	\$4,200
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: more than 20. Application [Program Code(s): 04311, 04313]	\$5,200
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>9</sup> Number of locations of use: 1-5. Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130]	\$3,400
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>9</sup> Number of locations of use: 6-20. Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	\$4,500
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>9</sup> Number of locations of use: more than 20. Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	\$5,700
Q. Registration of a device(s) generally licensed under part 31 of this chapter. Registration	\$700
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section. <sup>5</sup> 1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4) or (5) but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700]	\$2,500
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5). Application [Program Code(s): 02710]	\$2,500
S. Licenses for production of accelerator-produced radionuclides. Application [Program Code(s): 03210]	\$14,100

<p>4. Waste disposal and processing<sup>11</sup>:</p> <p>A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. Application [Program Code(s): 03231, 03233, 03236, 06100, 06101]</p>	Full Cost
<p>B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234]</p>	\$6,800
<p>C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232]</p>	\$5,000
<p>5. Well logging<sup>11</sup>:</p> <p>A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112]</p>	\$4,500
<p>B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113]</p>	Full Cost
<p>6. Nuclear laundries<sup>11</sup>:</p> <p>A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218]</p>	\$21,900
<p>7. Medical licenses<sup>11</sup>:</p> <p>A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1-5. Application [Program Code(s): 02300, 02310]</p>	\$11,000
<p>(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar</p>	\$14,600

beam therapy devices. Number of locations of use: 6-20. Application [Program Code(s): 04510, 04512]	
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: more than 20. Application [Program Code(s): 04511, 04513]	\$18,300
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1-5. Application [Program Code(s): 02110]	\$8,600
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6-20. Application [Program Code(s): 04710]	\$11,400
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: more than 20. Application [Program Code(s): 04711]	\$14,200
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. <sup>10</sup> Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	\$5,500
8. Civil defense <sup>11</sup> : A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. Application [Program Code(s): 03710]	\$2,500

9. Device, product, or sealed source safety evaluation: A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution. Application -- each device	\$5,400
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. Application -- each device	\$8,900
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution. Application -- each source	\$5,200
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel. Application -- each source	\$1,000
10. Transportation of radioactive material: A. Evaluation of casks, packages, and shipping containers. 1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost
2. Other Casks	Full Cost
B. Quality assurance program approvals issued under part 71 of this chapter. 1. Users and Fabricators. Application	\$4,200
Inspections	Full Cost
2. Users. Application	\$4,200
Inspections	Full Cost
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost
11. Review of standardized spent fuel facilities.	Full Cost
12. Special projects: Including approvals, pre-application/licensing activities, and inspections. Application [Program Code: 25110]	Full Cost
13. A. Spent fuel storage cask Certificate of Compliance.	Full Cost
B. Inspections related to storage of spent fuel under § 72.210 of this chapter.	Full Cost
14. Decommissioning/Reclamation <sup>11</sup> A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70,	

72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21240, 21325, 22200]	Full Cost
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost
15. Import and Export licenses: <sup>12</sup> Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.). A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b). Application -- new license, or amendment; or license exemption request	N/A
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.). Application -- new license, or amendment; or license exemption request	N/A
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances. Application -- new license, or amendment; or license exemption request	N/A
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances. Application -- new license, or amendment; or license exemption request.	N/A
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities. Minor amendment	N/A

<p>Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).</p> <p><i>Category 1 (Appendix P, 10 CFR Part 110) Exports:</i></p> <p>F. Application for export of appendix P Category 1 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I.</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application -- new license, or amendment; or license exemption request</p>	N/A
<p>H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application -- new license, or amendment; or license exemption request</p>	N/A
<p>I. Requests for each additional government-to-government consent in support of an export license application or active export license.</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p><i>Category 2 (Appendix P, 10 CFR Part 110) Exports:</i></p> <p>J. Application for export of appendix P Category 2 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)).</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>K. Applications for export of appendix P Category 2 materials requiring Executive Branch review.</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
<p>L. Application for the export of Category 2 materials.</p> <p>Application -- new license, or amendment; or license exemption request</p>	N/A
M. [Reserved]	N/A
N. [Reserved]	N/A
O. [Reserved]	N/A
P. [Reserved]	N/A

Q. [Reserved]	N/A
<p><i>Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):</i></p> <p>R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.</p> <p>Minor amendment</p>	N/A
<p>16. Reciprocity:</p> <p>Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.</p> <p>Application</p>	\$1,800
<p>17. Master materials licenses of broad scope issued to Government agencies.</p> <p>Application [Program Code(s): 03614]</p>	Full Cost
<p>18. Department of Energy.</p> <p>A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).</p>	Full Cost
<p>B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities.</p>	Full Cost

<sup>1</sup>*Types of fees* - Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is

applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

<sup>2</sup> Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

<sup>3</sup> Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

<sup>4</sup> Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

<sup>5</sup> Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

<sup>6</sup> Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

<sup>7</sup> Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

<sup>8</sup> Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

<sup>9</sup> Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

<sup>10</sup> Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

<sup>11</sup> A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

<sup>12</sup> Because the Consolidated Appropriations Act, 2018, excludes international activities from the fee-recoverable budget in fiscal year 2018, import and export licensing actions will not be charged fees.

## **PART 171 -- ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE**

### **LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF**

### **CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE**

### **PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC**

7. The authority citation for part 171 continues to read as follows:



**AUTHORITY:** Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

8. In § 171.3, revise the last sentence to read as follows:

**§ 171.3 Scope.**

\* \* \* Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

**§ 171.5 [Amended]**

9. In § 171.5, remove the definition of *Overhead* and *general and administrative costs*.

10. In § 171.15, revise paragraphs (b)(1), (b)(2) introductory text, (c)(1), (c)(2) introductory text, (d)(1) introductory text, (d)(1)(ii), (d)(2) and (3), and (f) to read as follows:

**§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.**

\* \* \* \* \*

(b)(1) The FY 2018 annual fee for each operating power reactor that must be collected by September 30, 2018, is \$4,333,000.

(2) The FY 2018 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in

paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2018 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2018 base annual fee for operating power reactors are as follows:

\* \* \* \* \*

(c)(1) The FY 2018 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is \$198,000.

(2) The FY 2018 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and a fee-relief adjustment. The activities comprising the FY 2018 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2018 spent fuel storage/reactor decommissioning rebaselined annual fee are:

\* \* \* \* \*

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section for a given fiscal year, annual fees will be reduced. The activities comprising the FY 2018 fee-relief adjustment are as follows:

\* \* \* \* \*

(ii) Activities not attributable to an existing NRC licensee or class of licenses (e.g., support for the Agreement State program); and

\* \* \* \*

(2) The total FY 2018 fee-relief adjustment allocated to the operating power reactor class of licenses is a \$3,349,085 fee-relief credit, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2018 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a \$33,829 fee-relief credit. This amount is calculated by dividing the total operating power reactor fee-relief adjustment, \$3,349,085, by the number of operating power reactors (99).

(3) The FY 2018 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a \$172,641 fee-relief credit. The FY 2018 spent fuel storage/reactor decommissioning fee relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is a \$1,415 fee-relief credit. This amount is calculated by dividing the total fee-relief adjustment costs allocated to this class by the total number of power reactors licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

\* \* \* \*

(f) The FY 2018 annual fees for licensees authorized to operate a research or test (non-power) reactor licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	\$81,300
Test reactor	\$81,300

11. In § 171.16, revise paragraphs (a)(2), (d), (e) introductory text, and (e)(2) to read as follows:

**§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.**

(a) \* \* \*

(2) Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license.

\* \* \* \* \*

(d) The FY 2018 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2018 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2018 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

**SCHEDULE OF MATERIALS ANNUAL FEES  
AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC  
[See footnotes at end of table]**

Category of materials licenses	Annual fees <sup>1, 2, 3</sup>
1. Special nuclear material: A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities. (a) Strategic Special Nuclear Material (High Enriched Uranium) <sup>15</sup> [Program Code(s): 21130]	\$7,346,000

(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel <sup>15</sup> [Program Code(s): 21210]	\$2,661,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities. (a) Facilities with limited operations <sup>15</sup> [Program Code(s): 21310, 21320]	N/A
(b) Gas centrifuge enrichment demonstration facility <sup>15</sup>	N/A
(c) Others, including hot cell facility <sup>15</sup>	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) <sup>11,15</sup> [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	\$2,900
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	\$7,500
E. Licenses or certificates for the operation of a uranium enrichment facility <sup>15</sup> [Program Code(s): 21200]	\$3,513,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities. <sup>4</sup> [Program Code: 22155]	\$5,500
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. <sup>15</sup> [Program Code: 11400]	\$1,517,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. (a) Conventional and Heap Leach facilities <sup>15</sup> [Program Code(s): 11100]	\$38,800
(b) Basic <i>In Situ</i> Recovery facilities <sup>15</sup> [Program Code(s): 11500]	\$49,200
(c) Expanded <i>In Situ</i> Recovery facilities <sup>15</sup> [Program Code(s): 11510]	\$55,700

(d) <i>In Situ</i> Recovery Resin facilities <sup>15</sup> [Program Code(s): 11550]	<sup>5</sup> N/A
(e) Resin Toll Milling facilities <sup>15</sup> [Program Code(s): 11555]	<sup>5</sup> N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) <sup>15</sup> [Program Code(s): 11600, 12000]	<sup>5</sup> N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) <sup>15</sup> [Program Code(s): 12010]	\$22,000
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water <sup>15</sup> [Program Code(s): 11820]	\$6,500
B. Licenses that authorize possession, use, and/or installation of source material for shielding. <sup>16,17</sup> [Program Code: 11210]	\$3,200
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	\$5,200
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231]	\$6,000
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	\$7,400
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	\$9,200
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	\$30,700
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014]	\$40,600
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter	

for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04011, 04013, 04015]	\$50,600
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	\$11,400
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	\$15,100
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04111, 04113, 04115, 04117]	\$18,900
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	\$11,500
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	\$15,200
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more	

than 20. [Program Code(s): 04211, 04213, 04215]	\$18,800
D. [Reserved]	<sup>5</sup> N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	\$10,100
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	\$11,000
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	\$91,000
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255, 03257]	\$11,100
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	\$15,500
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	\$4,300
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this	\$3,100



chapter [Program Code(s): 03242, 03244]	
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1-5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	\$14,600
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6-20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	\$19,300
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	\$24,000
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	\$13,300
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	\$17,600
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1-5. [Program Code(s): 03310, 03320]	\$25,000
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6-20. [Program Code(s): 04310, 04312]	\$33,400
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: more than 20. [Program Code(s): 04311, 04313]	\$41,600
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>18</sup> Number of locations of use: 1-5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	\$8,600
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>18</sup> Number of locations of use: 6-20.	

[Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	\$11,400
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. <sup>18</sup> Number of locations of use: more than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	\$14,400
Q. Registration of devices generally licensed under part 31 of this chapter	<sup>13</sup> N/A
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: <sup>14</sup> (1). Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4) or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	\$7,100
(2). Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	\$7,500
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	\$30,200
4. Waste disposal and processing: A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	<sup>5</sup> N/A
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234]	\$18,900
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232]	\$10,800
5. Well logging: A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112]	\$14,900
B. Licenses for possession and use of byproduct material	

for field flooding tracer studies. [Program Code(s): 03113]	<sup>5</sup> N/A
6. Nuclear laundries: A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]	\$35,600
7. Medical licenses: A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9</sup> Number of locations of use: 1-5. [Program Code(s): 02300, 02310]	\$20,600
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9</sup> Number of locations of use: 6-20. [Program Code(s): 04510, 04512]	\$30,100
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9</sup> Number of locations of use: more than 20. [Program Code(s): 04511, 04513]	\$34,100
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9</sup> Number of locations of use: 1-5. [Program Code(s): 02110]	\$30,900
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9</sup> Number of locations of use: 6-20. [Program Code(s): 04710]	\$40,700
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of	\$50,500

byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9</sup> Number of locations of use: more than 20. [Program Code(s): 04711]	
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. <sup>9, 19</sup> [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	\$13,900
8. Civil defense: A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710]	\$7,100
9. Device, product, or sealed source safety evaluation: A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	\$7,300
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	\$12,100
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	\$7,000
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	\$1,400
10. Transportation of radioactive material: A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers. 1. Spent Fuel, High-Level Waste, and plutonium air packages	<sup>6</sup> N/A
2. Other Casks	<sup>6</sup> N/A
B. Quality assurance program approvals issued under part 71 of this chapter. 1. Users and Fabricators	<sup>6</sup> N/A
2. Users	<sup>6</sup> N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	<sup>6</sup> N/A
11. Standardized spent fuel facilities	<sup>6</sup> N/A

12. Special Projects [Program Code(s): 25110]	<sup>6</sup> N/A
13. A. Spent fuel storage cask Certificate of Compliance	<sup>6</sup> N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	<sup>12</sup> N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21240, 21325, 22200]	<sup>7,20</sup> \$0
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	<sup>7</sup> N/A
15. Import and Export licenses	<sup>8</sup> N/A
16. Reciprocity	<sup>8</sup> N/A
17. Master materials licenses of broad scope issued to Government agencies. <sup>15</sup> [Program Code(s): 03614]	\$320,000
18. Department of Energy:	
A. Certificates of Compliance	<sup>10</sup> \$1,082,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	\$122,000

<sup>1</sup> Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

<sup>2</sup> Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

<sup>3</sup> Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the *Federal Register* for notice and comment.

<sup>4</sup> Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

<sup>5</sup> There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

<sup>6</sup> Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

<sup>7</sup> Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

<sup>8</sup> No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

<sup>9</sup> Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, or 7.C.

<sup>10</sup> This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

<sup>11</sup> See § 171.15(c).

<sup>12</sup> See § 171.15(c).

<sup>13</sup> No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

<sup>14</sup> Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

<sup>15</sup> Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

<sup>16</sup> Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

<sup>17</sup> Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

<sup>18</sup> Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

<sup>19</sup> Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

<sup>20</sup> No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section, as reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section for a given fiscal year, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2018 fee-relief adjustment are as follows:

\* \* \* \* \*

(2) Activities not attributable to an existing NRC licensee or class of licenses (e.g., support for the Agreement State program); and

\* \* \* \* \*

12. In § 171.17, revise paragraph (a) introductory text to read as follows:

**§ 171.17 Proration.**

\* \* \* \* \*

(a) Reactors, 10 CFR part 72 licensees who do not hold 10 CFR part 50 licenses, and materials licenses with annual fees of \$100,000 or greater for a single fee category. The NRC will base the proration of annual fees for terminated and downgraded licensees on the fee rule in effect at the time the action is official. The NRC will base the determinations on the proration requirements under paragraphs (a)(2) and (3) of this section.

\* \* \* \* \*

Dated at Rockville, Maryland, this 11<sup>th</sup> day of June, 2018.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,  
Chief Financial Officer.

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